

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P No. 19487 of 2015
and
M.P. No.1 of 2015

M. Chenna Kesava Reddy

... Petitioner

Vs.

1. The Branch Manager
Indian Bank
Paradarami Branch
Paradarami Main Road
Paradarami
Gudiyatham Taluk
Vellore District
2. The Authorised Officer
Indian Bank
Zonal Office
Vellore
46-51, Katpadi Road
TKM Complex
Vellore 632 004

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records relating to the impugned sale notice dated 10.06.2015 issued by the second respondent and quash the same and further direct the respondents not to invoke any measures under the SARFAESI Act against the agricultural property measuring about 8.84 acres comprised in S.F. Nos.7/36, 7/35 and 7/34 situated at Rangasamudram Village, D.P. Palayam Panchayat, Gudiyatham Taluk, Vellore District of the petitioner and others.

For petitioner : Mr. A. Ilangovan

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

This writ petition is filed assailing the sale notice dated 10.06.2015 issued by the second respondent bank and further, for a direction to the respondents not to invoke any measures under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (for short "the SARFAESI Act") against the petitioner's agricultural property.

2. The petitioner is stated to be a borrower. According to the petitioner, the secured asset was an agricultural land, against which loan was obtained by him and as such, the respondent bank cannot recover the outstanding dues under the proceedings initiated under the SARFAESI Act. It is next contended that the second respondent issued a demand notice under Section 13(2) of the SARFAESI Act on 31.12.2014. Thereafter, an objection was raised by him, which was not properly considered and a notice under Section 13(4) of the SARFAESI Act was issued on 24.03.2015. Consequently, the respondent bank has put the property on auction sale by sale notice dated 10.06.2015, indicating the date of sale as 16.07.2015. It is further contended that there is a bar under the provisions of the SARFAESI Act to proceed against an agricultural property and as such, the entire exercise initiated by the respondent bank is vitiated and deserves to be set aside.

3. It is a well settled principle of law that a person being aggrieved by any action or measure taken under Section 13(4) of the SARFAESI Act, is competent and entitled to prefer an appeal under Section 17, *ibid*, before the Debts Recovery Tribunal. Admittedly, the demand notice was issued on 31.12.2014. Thereafter, possession notice under Section 13(4) of the SARFAESI Act was issued on 24.03.2015. Seemingly, the petitioner has not taken any steps thereafter, till the impugned sale notice was issued.

4. In view of the aforestated backdrop, at this stage, we are not inclined to interfere with the matter. If the petitioner is aggrieved by the impugned sale notice issued by the respondent bank, he is at liberty to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act, seeking an appropriate direction against the bank, raising the appropriate contentions available to him under the provisions of law.

5. Having regard to the fact situation, we grant 12 days' time to the petitioner to approach the Debts Recovery Tribunal under Section 17 of the SARFAESI Act. Status quo as obtained today, in

respect of the property in question, shall be maintained for a period of 12 days. The petitioner is also at liberty to make a representation before the bank in response to the impugned sale notice.

6. The writ petition stands disposed of with the above observations. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad

To

1. The Branch Manager
Indian Bank
Paradarami Branch
Paradarami Main Road
Paradarami, Gudiyatham Taluk
Vellore District
2. The Authorised Officer
Indian Bank
Zonal Office
Vellore
46-51, Katpadi Road
TKM Complex, Vellore 632 004

+4cc's to Mr.A.Ilangovan, Advocate, S.R.No.33378

सत्यमेव जयते

W.P. No.19487 of 2015

TS (CO)
CA(08/07/2015)

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