

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

W.P.No.32715 of 2015
and
M.P.No.1 of 2015

A. Rajkafur

... Petitioner

Vs

1. The District Magistrate & Collector,
Virudhunagar District,
Virudhunagar.
- 2 The Authorized Officer of the
Secured Creditor & Chief Manager,
Indian Bank,
No.55 New Road, Sivakasi-123.
- 3 Mr.N.Mariappan
- 4 The Thasildar
Sivakasi, Virudhunagar District
- 5 The Registrar,
Debt Recovery Appellate Tribunal,
No.55 Ethiraj Salai Chennai-2.

... Respondents

Writ petition filed under Article 226 of the Constitution seeking for the issuance of a writ of mandamus forbearing the 4th respondent from executing the Order dated 9.10.2015 made in Na.Ka.A1/ 12966/2014 and to forbear the respondents from proceeding under Section 14 of the SARFAESI Act until disposal of the Appeal under Section 18 of the SARFAESI Act in AIR No.650 of 2015 filed by the petitioner before the 5th respondent dated 25.8.2015.

For Petitioner : Mr.G. Dhandapani
For Respondents : Mrs. A. Srijayanthi
Special Government Pleader -R1&R4

ORDER

(Order of the Court was delivered by SATISH K. AGNIHOTRI,J.,)
Mrs. A. Srijayanthi, learned Special Government Pleader, accepts notice for the respondents 1 and 4. With the consent of the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 and 4, the writ petition is taken up for final disposal, at the admission stage itself.

2. This writ petition is filed seeking a direction to forbear the fourth respondent/ Tahsildar, Sivakasi, Virudhunagar District, who is under an obligation to comply with the order dated 14.08.2014 passed by the first respondent/ District Magistrate and Collector, in an application filed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, (for short "SARFAESI Act"), from taking action, till the disposal of the petitioner's appeal (AIR No.650 of 2015) filed under Section 18 of the SARFAESI Act.

3. Learned counsel appearing for the petitioner submits that the petitioner has also made an application for waiving of the payment of Court fee and the said application is to be listed for hearing on 05.11.2015.

4. It is pertinent to point out that before taking decision in the waiver application, no application for interim relief can be entertained, inasmuch as cognizance of appeal can be taken either after the proper court fee is paid or payment is waived off. In the case on hand, the order dated 9th October, 2015 sought to be restrained in pursuance of the order of the first respondent dated 16th September, 2014 passed in exercise of power under Section 14 of the SARFAESI Act is to be examined by the appellate Tribunal. At this stage, we cannot adjudicate the issue and also pass any order, staying the action initiated by the Tahsildar in pursuance of the order passed by the District Magistrate during the pendency of the dispute before the appellate authority.

5. However, having regard the fact situation, we grant liberty to the petitioner to make an application for interim relief before the Appellate Authority. If such an application is filed or the same is pending consideration, the Appellate

Authority is directed to consider the same, on its own merits and in accordance with law, at the earliest, preferably within a period of two weeks.

6. With the aforesaid direction, this writ petition stands disposed of. No costs. Connected miscellaneous petition is closed.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

ra.

To

1. The District Magistrate & Collector,
Virudhunagar District,
Virudhunagar.
- 2 The Thasildar
Sivakasi, Virudhunagar District
- 3 The Registrar,
Debt Recovery Appellate Tribunal,
No.55 Ethiraj Salai Chennai-2.

+1 cc to Mr.Dhandapani, Advocate (sr.54461)

+1 cc to Government Pleader (sr.57149)

सत्यमेव जयते

W.P. No. 32715 of 2015

skv(co)

cp 19/10/2015

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