

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-12-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE DR.JUSTICE P.DEVADOSS

WRIT PETITION No.40574 of 2015

IDBI Bank Limited
Chennai-6

.. Petitioner

vs

The District Magistrate-cum-
Collector
Thiruvallur District
Thiruvallur

.. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondent to dispose of the application filed by the petitioner under Section 14 of the SARFAESI Act, on 10.9.2014, in accordance with law.

For Petitioner : Mr.Suresh
for Mr.Shivakumar

For Respondent : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J.)

By consent, the writ petition itself is taken up for final disposal.

2.The deponent of the affidavit, who is the Deputy General Manager of the petitioner-bank, would aver that the petitioner-bank granted financial assistance to one He-Shines, which is a partnership firm, in the form of cash credit limit of Rs.110 lakhs, as per the terms and conditions of the letter of sanction dated 29.4.2010, and as security for the facility, one G.D.Varghese, one of the partners of the said firm, had agreed to

mortgage the property bearing Door No.14/3, Plot No.23, Ellaiammal Koil Street, Radhakrishnan Nagar, Thiruvotriyur, Chennai 600 019, by way of collateral security and the partner had also given his personal guarantee for the said facility, and an equitable mortgage was also created by one of the partners of the said firm and was duly registered with the Office of the Sub Registrar, Thiruvottrihur, vide Document No.4015 of 2010.

3.The deponent would further state that since the loan account of the borrower became irregular, it was classified as a Non-Performing Asset (NPA) on 31.12.2013, as per the RBI Guidelines and proceedings were initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), in the form of demand notice under Section 13(2) calling upon them to pay the outstanding sum of Rs.1,14,55,910/- as on 1.1.2014, with accrued interest at contractual rate from 1.1.2014 till payment, within a stipulated time, failing which, symbolic possession of the mortgaged property will be taken, and it was also followed by a notice under Section 13(4) of the SARFAESI Act, and since the borrower did not promptly respond, the petitioner has approached the respondent under Section 14 of the SARFAESI Act for the purpose of taking possession in the form of an application dated 10.9.2014, and since no orders have been passed, came forward to file this writ petition.

4.The learned Counsel appearing for the petitioner-bank, would submit that in terms of Section 14 of the SARFAESI Act, the respondent is under obligation to pass orders on the application submitted by the petitioner, and since he has not done so, the petitioner is constrained to approach this Court by filing the writ petition.

5.The Court heard the submissions of Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader, who accepted notice on behalf of the respondent, also.

6.This Court, taking into consideration the limited scope of prayer sought for by the petitioner, and without going into the merits of the same, directs the respondent to consider and dispose of the petitioner's application dated 10.9.2014, filed under Section 14 of the SARFAESI Act, by taking into consideration the judgments reported in (i) 2014 (5) CTC 546 (SUPREME COURT) (HARSHAD GOVARDHAN SANDAGAR V. INTERNATIONAL ASSETS RECONSTRUCTION COMPANY LIMITED AND OTHERS); (ii) (2015) 3 MLJ 385 (V.VISWANATHAN AND OTHERS V. DISTRICT COLLECTOR CUM DISTRICT MAGISTRATE AND OTHERS) and (iii) 2015-4-LW 70 (M.K.TELESAT MEDIA MATRIX PVT. LTD., V. THE CHIEF METROPOLITAN MAGISTRATE, CHENNAI AND OTHERS), and pass orders thereon in accordance with law, as expeditiously as possible and not later than six weeks from the date of receipt of a copy of this order

and communicate the decision taken, to the petitioner as well as to the borrower. The writ petition is disposed of accordingly. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

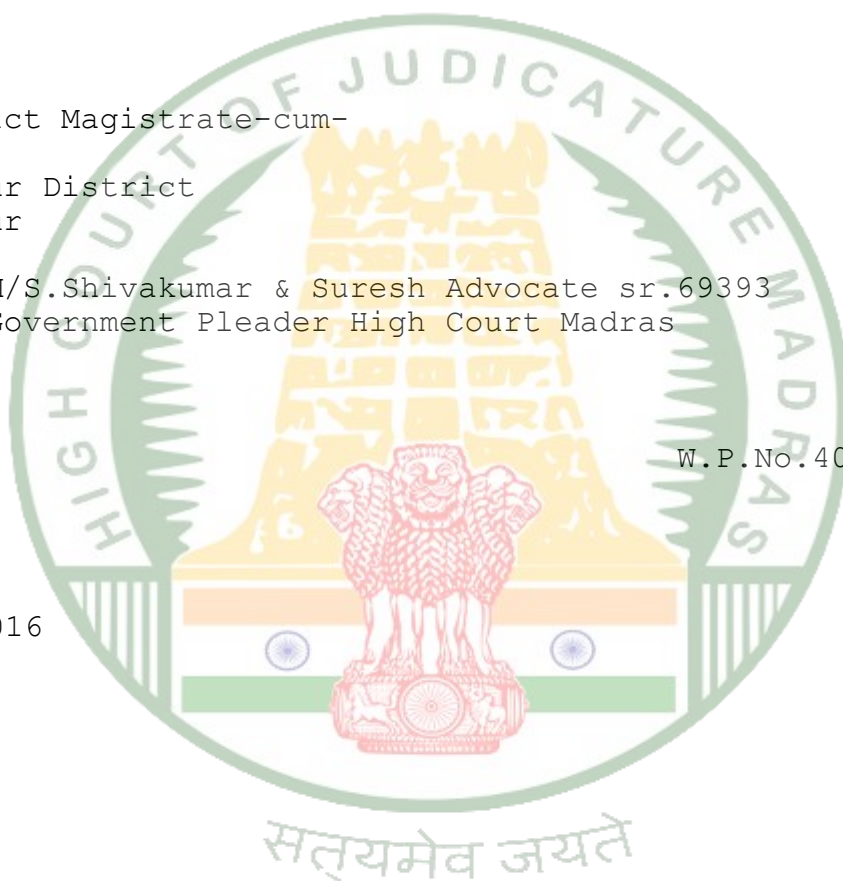
nsv
To:

The District Magistrate-cum-
Collector
Thiruvallur District
Thiruvallur

+1 cc to M/S.Shivakumar & Suresh Advocate sr.69393
+1 cc to Government Pleader High Court Madras
sr69705

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