

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2016

CORAM:

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Mr. JUSTICE V. BHARATHIDASAN

W.P. No.16005 of 2016 and W.M.P. No.13838 of 2016

State Bank of India
represented by its Authorised Officer
Stressed Assets Management Branch (SAMB)
Red Cross Building, No.32, Montieth Road
Egmore, Chennai 600 008 ... Petitioner

vs.

- 1 The Hon'ble Chief Metropolitan Magistrate
Chief Metropolitan Magistrate Court
Allikulam, Chennai 600 003
- 2 CCS Infotech Ltd.
No.14, Periyar Road
T. Nagar, Chennai 600 017
- 3 H. Ratnakumar
- 4 Suganya
- 5 M.F. Rahamath Mushina
- 6 M.A. Hassan Abdul Khader ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to dispose of Crl.M.P. No.4156 of 2015 dated 05.10.2015 and other Miscellaneous Applications filed in Crl.M.P. No.4156 of 2015 within a time frame.

For petitioner Mr. M.L. Ganesh

ORDER

(delivered by SATISH K.AGNIHOTRI, J.)

Notice to the respondents is dispensed with at this stage, inasmuch as no order prejudicial to their interest is passed in this writ petition. Thus, with the consent of the learned

counsel for the petitioner, this writ petition is taken up for final disposal, at the admission stage itself.

2 The case of the petitioner bank is that the petitioner bank had filed a petition in Crl.M.P. No.4156 of 2015 before the first respondent under the provisions of Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the SARFAESI Act"), seeking assistance to take over possession of the secured assets in furtherance of exercise under Section 13 (4) of the SARFAESI Act. The first respondent, vide order dated 05 October 2015, appointed two Advocate Commissioners and directed them to execute the warrant. However, due to filing of several Miscellaneous Petitions by some third parties at the instance of the private respondents, the case has been re-opened and the Advocate Commissioners are not in a position to enforce the order dated 05 October 2015 passed by the first respondent. While so, the first respondent has not passed orders on the application filed by the petitioner bank and the Miscellaneous Petitions therein, when the object of the said provision is to extend assistance to secure possession of the secured assets, at the earliest.

3 We have heard the learned counsel for the petitioner and perused the pleadings and documents appended thereto.

4 Given the facts situation, without expressing any opinion on the merits of the case, we direct the first respondent to take up petition filed by the petitioner bank under Section 14 of the SARFAESI Act and also the Miscellaneous Petitions stated to be filed therein by some third parties at the instance of the private respondents and decide the same in accordance with law and on their own merits, as expeditiously as possible, preferably, within a period of eight weeks from the date of receipt of a copy of this order. The first respondent is also directed to verify as to whether there is any tenancy or lease in respect of the secured assets and if it is so, the same has to be considered in the light of the judgment of the Supreme Court in Harshad Govardhan Sondagar vs. International Assets Reconstruction Company Ltd. and Others¹ and Vishal N. Kalsaria vs. Bank of India and Others².

1 (2014) 6 SCC 1

2 2016 (1) Scale 472

The writ petition stands disposed of with the above directions. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1 The Authorised Officer,
State Bank of India,
Stressed Assets Management Branch (SAMB),
Red Cross Building, No.32, Montieth Road,
Egmore, Chennai 600 0081.
- 2 The Hon'ble Chief Metropolitan Magistrate,
Chief Metropolitan Magistrate Court,
Allikulam, Chennai 600 003.

+1cc to Mr.M.L.Ganesh, Advocate sr.27594

W.P. No.16005 of 2016

sv(CO)
srg(27/05/2016)

सत्यमेव जयते

WEB COPY