

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.Nos.21857 to 21859 of 2016

M/s Sundaram BNP Paribas Home Finance Ltd.,
rep.by its Authorised Officer N.Udayakumar
46, Whites Road, SF Towers, I Floor
Royapettah
Chennai 600 014

.. Petitioner in all the writ petitions

-vs-

The District Magistrate/District Collector
Nagapattinam District
Nagapattinam

.. Respondent in W.P.No.21857 of 2016

The District Magistrate/District Collector
Krishnagiri District
Krishnagiri

Respondent in W.P.Nos.21858 &
21859 of 2016

W.P.No.21857 of 2016 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondent to pass orders on the petition dated 23.01.2015 filed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 within a time frame as fixed by this Hon'ble Court.

W.P.Nos.21858 & 21859 of 2016 are filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondent to pass orders on the petitions dated 24.10.2015 & 24.08.2015 respectively filed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 within a time frame as fixed by this Hon'ble Court.

For Petitioner :: Mrs.M.Sneha

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

ORDER

(Order of the Court was delivered by HULUVADI G.RAMESH, J.)

The petitioner-M/s Sundaram BNP Paribas Home Finance Limited has sought for issuance of a writ of mandamus, directing the District Magistrate/District Collector in each of the writ petition to pass orders on the respective petition filed under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 within a time frame as fixed by this Hon'ble Court.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader taking notice on behalf of the respondent in all the writ petitions.

3. Since a common prayer is made by the petitioner in all the writ petitions, for brevity, the facts leading to the filing of W.P.No.21857 of 2016 are alone referred to in this order. It appears that one Mr.U.Rajesh had borrowed a loan of Rs.60,55,000/- from the petitioner Finance Company in loan account No.42500339 agreeing to repay the same in 120 equal monthly installments of Rs.92,203/- with variable rate of interest by executing a loan agreement dated 8.7.2013 and also executed a security by way of equitable mortgage of his property in T.S.No.964, Block No.28, Ward No.3, Kuainadu, Mayiladuthurai Taluk & Town, Gandhi Nagar Third Cross and Vellore District to an extent of 1138 sq.ft. As there were defaults in repayment of the loan amount, the account was classified as Non-Performing Asset by the petitioner Finance Company and a notice of demand under Section 13(2) of the SARFAESI Act was issued on 1.5.2014 calling upon the borrower to settle the dues within sixty days from the receipt of the notice. Since the borrower did not take any steps to repay the dues within the statutory period, the petitioner was constrained to issue the possession notice under Section 13(4) of the SARFAESI Act on 18.8.2014 and also took symbolic possession of the property after publishing the possession notice in the leading newspapers on 20.8.2014, apart from sending the notice through registered post with acknowledgment due. Even after the receipt of the said possession notice, the borrower has failed to settle the dues to the petitioner and has also not filed any appeal against the possession notice. Hence the petitioner has moved a petition under Section 14 of the SARFAESI Act before the concerned District Magistrate/District Collector seeking for appropriate orders for taking physical possession of the mortgaged property of the borrowers as shown in the petition and as the said petition is pending consideration, the petitioner is before this Court seeking for a direction to the respondent to dispose of the petition in accordance with law at the earliest.

4. Considering the limited relief sought for in all the writ petitions, we direct the respondent-District Magistrate/District Collector concerned to pass orders in accordance with law on the petition filed by the petitioner under Section 14 of the SARFAESI Act for taking physical possession of the respective schedule mentioned

property, within a period of two months from the date of receipt of a copy of this order, after affording opportunity to both the parties. The writ petitions are disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

1. The District Magistrate/District Collector
Nagapattinam District
Nagapattinam

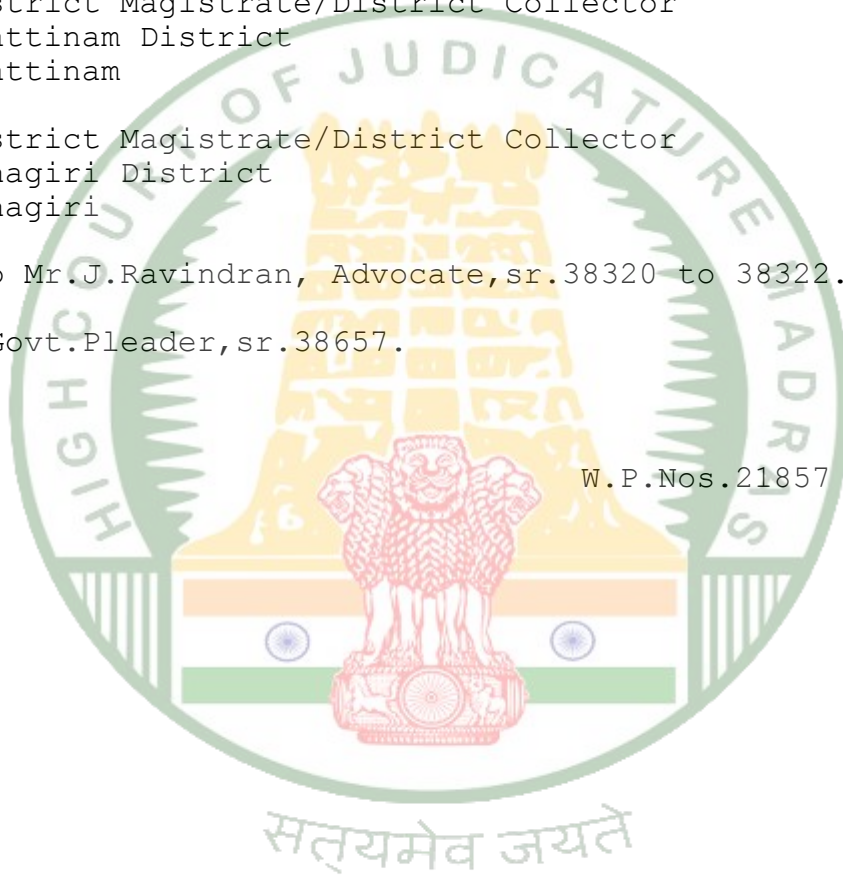
2. The District Magistrate/District Collector
Krishnagiri District
Krishnagiri

+3 cc's to Mr.J.Ravindran, Advocate,sr.38320 to 38322.

+1 cc to Govt.Pleader,sr.38657.

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W.P.Nos.21857 to 21859 of 2016



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