

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19/12/2016

C O R A M

The Honourable Mr. Justice S. Manikumar
and
The Honourable Mr. Justice M. Govindaraj

Writ Petition No. 38499 of 2015

Assets Reconstructions Company
(India) Ltd
rep. By its Senior Manager - Legal
Having its registered Office at
10th Floor, the Ruby
29 Senapati Bapat Marg
Dadar (West)
Mumbai 400 028

and its

Chennai Office at
No. 715-C, 7th Floor
Spencer Plaza, Phase II
No. 769 Anna Salai
Chennai 600 002.

.... Petitioner

Vs

The District Collector-cum-
District Magistrate
Office of the Collectorate
Tiruvallur District
Thiruvallur.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondent/District Collector-cum-District magistrate, Thiruvallur, to provide administrative assistance on an expeditious basis under Section 14 of the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, herein after referred and called as the SARFAESI Act, to take possession of the secured assets with respect to the applications filed by the petitioners, which are pending on the file of the respondent.

For petitioner ... Mr.V.Jayachandran
For respondent ... Mr.K.V.Dhanapalan
Special Government Pleader

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O R D E R

(Order of the Court was made by S.Manikumar,J)

Contending interalia that the District Collector-cum-District Magistrate, Thiruvallur, has not passed any orders on the petition filed under Section 14 of the Securitisation and Reconstructions of Financial Assets and Enforcement of Security Interest Act, 2002, Assets Reconstructions Company (India) Ltd., Chennai, has filed the instant writ petition, seeking for a mandamus, directing the said authority to pass appropriate orders.

2. When the matter came up on 14/12/2016, we directed the learned counsel for the petitioner to serve the entire cause papers on Mr.K.V.Dhanapalan, learned Special Government Pleaders, to get instructions. Considering the limited prayer, we directed the Registry to post the writ petition, on 19/12/202016 and thus, it is listed today.

3. On this day, when the matter came up for further hearing, Mr.K.V.Dhanapalan, learned Special Government Pleader, submitted that though a letter, dated 15/12/2016, has been sent to the District Collector-cum-District Magistrate, Thiruvallur District, by Fax, requesting him to provide appropriate instructions, so far, no instructions have been furnished.

4. We have perused the aforesaid letter, dated 15/12/2016, addressed to the District Collector-cum-District Magistrate, Thiruvallur District.

5. Mr.V.Jayachandran, learned counsel for the petitioner Company submitted that so far five applications, under Section 14 of the SARFAESI Act, have been filed, before the District Collector-cum-District Magistrate, Thiruvallur District, seeking assistance and so far, no orders have been passed. He further added that five petitions were required to be filed for assistance, to take physical possession of different properties.

6. Section 14 of the SARFAESI Act, 2002 mandates that on receipt of an affidavit from the Authorised Officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit, pass suitable orders for the purpose of taking

possession of the secured assets, within a period of 30 days from the date of application:

Provided further that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate, within the said period of thirty days, for the reasons beyond his control, he may after recording reasons, in writing, for the same, pass the order within such also period but not exceeding in aggregate 60 days.

7. Section 14 of the said Act, also contemplates the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, to consider certain parameters.

8. Directions have been issued by the Principal Secretary to Government, vide, Letter No.19498/Res.II/2014-1, dated 9/7/2014, that there should be speedy disposal of the application filed under Section 14 of the SARFAESI Act. The said letter is extracted hereunder:-

"I am to invite your kind attention to the reference cited (copy enclosed) wherein the GM, SLBC, Chennai, has requested to advise the District Collectors (District Magistrates) for speedy disposal of applications filed by banks to assist in taking possession of securities of the defaulters charged to the banks under Section 14 of SARFAESI Act, 2002.

2. In this connection, I am to request you to take necessary action for speedy disposal of the applications filed by the banks in taking possession of securities of the defaulters charged to the banks under Section 14 of SARFAESI Act, 2002, without affecting the image of the administration."

9. Following the same, in W.P.No.7813 of 2016, dated 22/4/2016, a Hon'ble Division Bench of this Court, has passed the following order:-

"In the light of the above, we direct the District Collector (District Magistrate), Thanjavur District, to pass orders on the Application dated 18/8/2015 in file Ref.No.34810/2015, filed under Section 14 of the SARFAESI Act, within the period of two months from the date of receipt of a copy of this order. While doing so, procedure set out under Section 14 of the Act should be

followed. Mr.B.Kumar, learned Additional Government Pleader is directed to forward the copy of this order to the Principal Secretary to Government, Finance (Res.II), Department, Chennai for appropriate follow up action."

10. Along with the supporting affidavit, to the instant writ petition, the petitioner has also enclosed the copies of the petitions, dated 8/1/2014, 7/5/2014, 11/9/2014, 24/12/2014 and 31/1/2015, filed under Section 14 of the SARFAESI Act, 2002.

11. Placing on record the submission of Mr.V.Jayachandran, learned counsel for the writ petitioner that no orders have been passed on the above said petitions and in the absence of any specific instructions by the District Collector-cum-District Magistrate, Thiruvallur, we are inclined to pass the following order.

12. The District Collector-cum-District Magistrate, Thiruvallur, is directed to dispose of the above said petitions, if not done earlier, within a period of one month, from the date of receipt of a copy of this order. While doing so, District Collector-cum-District Magistrate, Thiruvallur District, should act in accordance with Section 14 of the SARFAESI Act, 2002.

13. With the above observation and direction, this writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The District Collector-cum-District Magistrate
Office of the Collectorate
Tiruvallur District
Thiruvallur.

+1cc to Mr.Jayachandran, Advocate, S.R.No.74264
+1cc to the Government Pleader, S.R.No.74315

Writ Petition No.38499 of 2015

MG (CO)
GN(18/01/2017)