

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2016

CORAM

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

Writ Petition No.24831 of 2016

Tamil Nadu Mercantile Bank Ltd
represented through its
Authorized Officer
Chennai-14.

...Petitioner

Vs.

The District Magistrate &
District Collector,
Collectorate,
Kancheepuram District,
Kancheepuram.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondent to take necessary action under Section 14 of the SARFAESI Act within its specified period on the basis of the petition filed on 09.02.2016 and hand over possession of the property being land measuring 1815 sq.ft and residential building constructed at S.No.52/2, Old Door No.7A, New No.21, Plot No.317, 10th Street, Vinobaji Nagar, Chitlapakkam Post, Hastinapuram, Chennai-600 064.

For Petitioner : Mr.S.Sethuraman

For Respondent : Mr.P.S.Sivashanmuga Sundaram, SGP

ORDER

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

Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader accepts notice on behalf of the respondent. With the consent of both the parties, the writ petition is taken up for final disposal at the stage of admission itself.

2. The prayer made in the writ petition is to issue a Writ of Mandamus, directing the respondent to take necessary action under Section 14 of the Securitisation and Reconstruction of

Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act') within its specified period on the basis of the petition filed on 09.02.2016 and hand over possession of the property being land measuring 1815 sq.ft and residential building constructed at S.No.52/2, Old Door No.7A, New No.21, Plot No.317, 10th Street, Vinobaji Nagar, Chitlapakkam Post, Hastinapuram, Chennai-600 064.

3. The case of the petitioner is that one M/s.Agriya Granites rep. by its Proprietrix B.Rajarajeshwari had availed over draft facility to the tune of Rs.35,00,000/- on 11.03.2008 and car loan to the tune of Rs.7,00,000/- on 30.04.2008 from the petitioner and has executed necessary documents in favour of the bank agreeing to repay the loan as per the loan agreement. To secure the loan, one R.Bakthavatchalam stood as guarantor and has deposited the original title deed in respect of the property situated at S.No.52/2, Old Door No.7A, New No.21, Plot No.317, 10th Street, Vinobaji Nagar, Chitlapakkam Post, Hastinapuram, Chennai-64. Thereafter, the borrower failed to repay the amount, which compelled the petitioner to classify the account of the borrower as Non-performing Asset and issue a demand notice under Section 13(2) of the SARFAESI Act on 27.10.2010. Even after receipt of the same, the borrower has not come forward to repay the amount. Hence, a possession notice under Section 13(4) of the SARFAESI Act came to be issued by the petitioner and the same was also affixed in the property of the borrower. Finding no response, the petitioner filed an application dated 09.02.2016 under Section 14 of the SARFAESI Act before the respondent to render assistance in taking physical possession of the property in question for auction sale. On receipt of the same, the respondent sent a letter dated 27.02.2016 to the Tahsildar, to verify all the documents and submit a detailed report in respect of the property in question. However, there was no response and the petitioner's application under Section 14 of the SARFAESI Act is still pending before the respondent. Therefore, the petitioner has no other option except to approach this Court with the present writ petition for the relief stated supra.

4. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondent.

5. Considering the facts and circumstances of the case, without expressing any opinion with regard to the claim made by the petitioner, we direct the respondent herein to consider the petitioner's application dated 09.02.2016 filed under Section 14 of the SARFAESI Act and pass necessary orders, within a period of two months from the date of receipt of a copy of this order.

It is made clear that the respondent shall take a decision in the petitioner's Section 14 application, in accordance with law, after giving due opportunity of personal hearing to the petitioner as well as to the borrower and the guarantors.

6. The writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

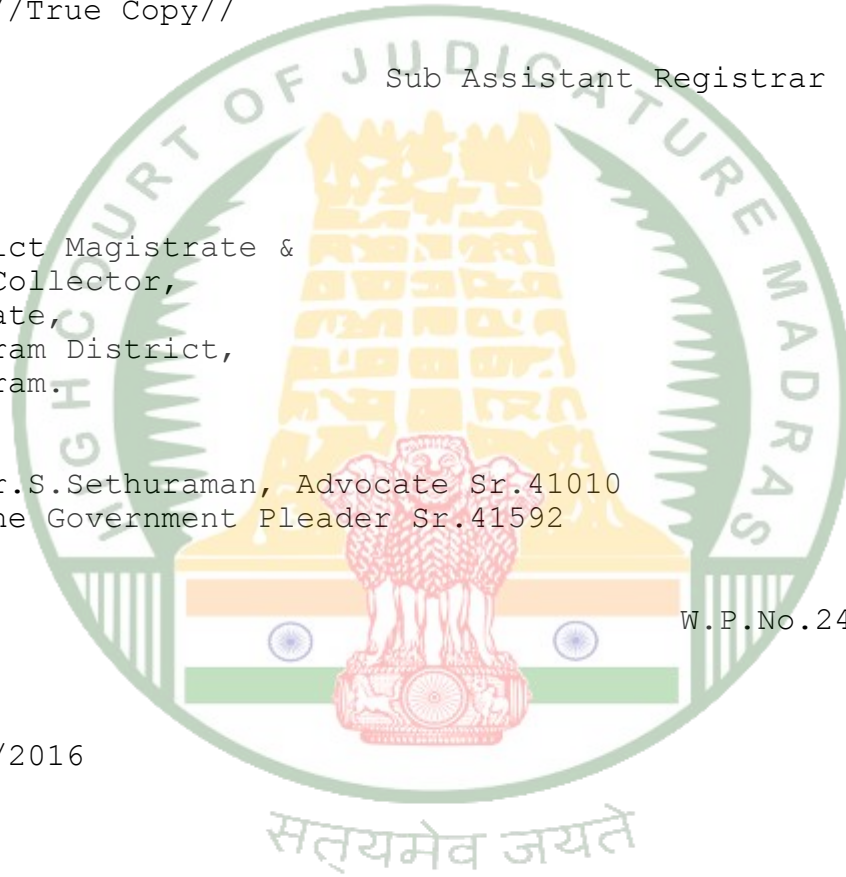
To

The District Magistrate &
District Collector,
Collectorate,
Kancheepuram District,
Kancheepuram.

+1cc to Mr.S.Sethuraman, Advocate Sr.41010
+1cc to the Government Pleader Sr.41592

W.P.No.24831 of 2016

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