

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2016

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE N.AUTHINATHAN

Writ Petition No.34203 of 2016
and

WMP No.29507 of 2016

M/s.M.R.Motor Company
Rep. by its Managing Partner
N.Rajagopal
No.19, D.D. Road
Salem - 637 001

... Petitioner

Vs.

1. The Federal Bank Ltd.
Rep. by its Branch Manager
Salem Branch
No.20, Ramakrishna Road
Salem - 636 007

2. The Authorised Officer
The Federal Bank Ltd.
Salem Branch
No.20, Ramakrishna Road
Salem - 636 007

3. The District Collector/District Magistrate
Namakkal District
District Collectorate
Tiruchengode Road
Namakkal

4. The Inspector of Police
Namakkal Police Station
Namakkal

... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus forbearing the respondents and their subordinates or any other official tracing power under them or on their behalf from taking physical possession of the agricultural property mentioned in Item No.1 of the Petition dt.15.3.2016 filed by the 2nd respondent before the 3rd respondent, in connection with the summon in N.K.8205/2015-M4 dated 5.8.2016 on the file of the 3rd respondent and from bringing the same for auction sale permanently.

For Petitioner : Mr.R.Neelakandan

ORDER
(delivered by S.MANIKUMAR, J)

Material on record discloses that the Authorised Officer, Federal Bank, Salem, has filed a petition under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (in short SARFAESI Act, 2002) for the following prayers:

- (a) to take physical possession of the schedule mentioned property;
- (b) to forward such assets to the secured creditor the petitioner herei; and
- (c) to direct the Inspector of Police, to render police protection to the Tahsildar/RDO to take possession of the Schedule mentioned property.

2. On the above prayers, the District Collector, Namakkal District, has issued a notice in Na.Ka.8205/2015-M4 dated 5.8.2016, which is extracted hereunder:

" Office of District Collector,
Namakkal

Na.Ka.8205/2015-M4

Dated 05.08.2016

SUMMONS

Sub: SARFAESI Act, 2002 - Salem District and Taluk - D.D.Road, Door No.19, I Floor, Chinthamani (1) M/s.M.R.Motor Company - Namakkal District and Taluk - Thuraiyur Road - North Kosavampatti Post - (2) M/s.R.G.K. Building (3) N.Rajagopal (4) Mrs.R.Mahalakshmi (5) Gopal - Non-payment of loan to Federal Bank - To appear for enquiry - Reg.

Ref: Petition filed by Authorised Officer M/s.The Federal Bank Ltd., Salem Dated: 16.03.2016

The authorised officer informed that (1) M/s.M.R.Motor Company, D.D.Road, Door No.19, I Floor, Chinthamani, Salem District and Taluk (2) M/s.R.G.K. Building (3) N.Rajagopal (4) Mrs.R.Mahalakshmi (5) Gopal have obtained loan of Rs.5,50,00,000/- (Rupees Five Crores and Fifty Lakhs) and did not repay the same and therefore,

requested to take possession, for auction sale of the properties of the borrowers. To enquire into this, the following persons are to appear for enquiry along with relevant records before the District Collector at the office of the District Collector on 01.09.2016 at 5.00 p.m, failing which further action would be taken based on the available records.

- (1) M/s.M.R.Motor Company
- (2) M/s.R.G.K. Building
- (3) N.Rajagopal
- (4) Mrs.R.Mahalakshmi
- (5) Gopal

// By Order //

Sd/ N.Balachandran
For District Collector
Namakkal.

To,
M/s.M.R.Motor Company
19, First Floor,
Chinthamani,
D.D.Road,
Salem - 636 001"

3. Responding to the above, the Managing Partner of M/s.M.R.Motor Company, the borrower, has filed objections.

4. In the above said circumstances, borrower M/s.M.R.Motor Company, has sought for a writ of mandamus forbearing the respondents and their subordinates or any other official tracing power under them or on their behalf from taking physical possession of the agricultural property mentioned in Item No.1 of the Petition dt.15.3.2016 filed by the 2nd respondent before the 3rd respondent, in connection with the summons, in N.K.8205/2015-M4 dated 5.8.2016, on the file of the 3rd respondent and from bringing the same for auction sale permanently.

5. Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, reads as follows:

14. Chief Metropolitan Magistrate or District Magistrate to assist secured creditor in taking possession of secured asset,

(1) Where the possession of any secured assets is required to be taken by the secured creditor or if any of the secured asset is required to be sold or transferred by the secured creditor under the provisions of this Act, the secured creditor may, for the purpose of taking

possession or control of any such secured asset, request, in writing, the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any such secured asset or other documents relating thereto may be situated or found, to take possession thereof, and the Chief Metropolitan Magistrate or, as the case may be, the District Magistrate shall, on such request being made to him--

(a) take possession of such asset and documents relating thereto; and

(b) forward such assets and documents to the secured creditor.

(2) For the purpose of securing compliance with the provisions of sub-section (1), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force, as may, in his opinion, be necessary.

(3) No act of the Chief Metropolitan Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.

6. When the matter is pending before the District Collector, to pass appropriate orders under Section 14 of the Act, prayer sought for in this writ petition, cannot be granted. It is for the District Collector, to consider the parameters contained in Section 14 of the Act, and to pass appropriate orders, within four weeks from the date of receipt of a copy of this order.

With the above observation, the writ petition is disposed of. However, there shall be no order as to cost. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

asr

To

1. The District Collector/District Magistrate
Namakkal District
District Collectorate
Tiruchengode Road
Namakkal

2. The Branch Manager
Federal Bank Ltd.
Salem Branch
No.20, Ramakrishna Road
Salem - 636 007

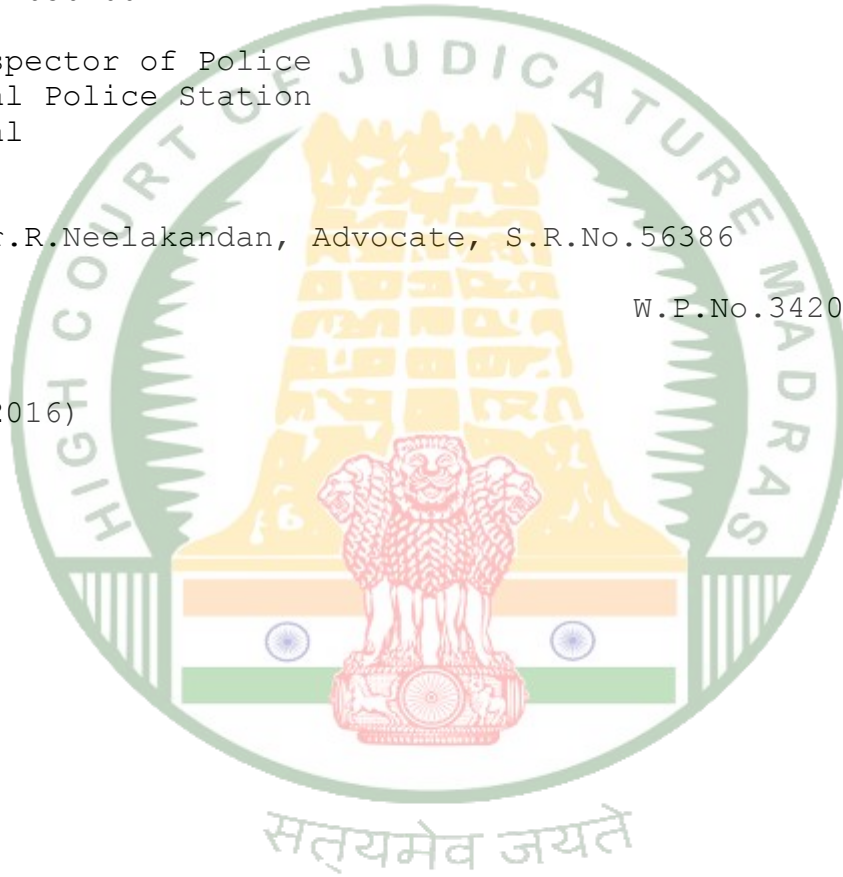
3. The Authorised Officer
The Federal Bank Ltd.
Salem Branch
No.20, Ramakrishna Road
Salem - 636 007

4. The Inspector of Police
Namakkal Police Station
Namakkal

+1cc to Mr.R.Neelakandan, Advocate, S.R.No.56386

W.P.No.34203 of 2016

SM(CO)
CA(07/10/2016)



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