



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

and

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

WEB COPY

Writ Petition (MD) No. 18541 of 2016

The Chief Manager,
(Authorized Officer),
State Bank of India,
Beach Road,
Thoothukudi.

... Petitioner

Vs.

The Collector and District Magistrate,
Thoothukudi,
Thoothukudi District.

... Respondent

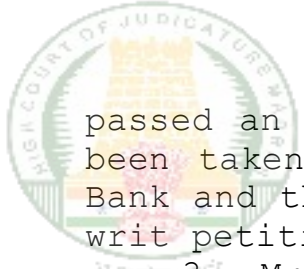
Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to forthwith enforce the order dated 10.04.2009 made in Roc.C4/15652/2009.

For Petitioner	:	Mr.S.Sethuraman
For Respondent	:	Mr.D.Muruganandam
		Additional Government Pleader

O R D E R

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)
By consent, the writ petition is taken up for final disposal.

2. The petitioner/Nationalised Bank granted loan facilities to one R.Fidelis Villavarayar @ Fidelis, S/o. Late C.Rayappan, Proprietor, M/s. Jemimma Ice Plant, 77A, Therespuram, Thoothukudi, to the tune of Rs.33 lakhs. Necessary security has also been executed. It is stated by the petitioner/ Bank that the borrower/guarantor had failed to repay the outstanding loan amount of Rs.40,24,272.88/- and to recover the same, the petitioner has initiated the proceedings, by issuing a notice under Section 13(2) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (SARFAESI) dated 23.08.2007 and even after receipt of the notice, neither the borrower nor the guarantor had chosen to discharge their liability. Therefore, the Bank, after following the due procedure had moved the respondent under Section 14 of the SARFAESI Act, for taking possession of the security assets. The grievance expressed by the petitioner is that though the respondent has



passed an order as early as on 10.04.2009, no further steps have been taken to get the possession of the assets in favour of the Bank and therefore, they have approached this Court by filing this writ petition.

3. Mr.S.Sethuraman, the learned counsel appearing for the petitioner would submit that the matter is pending for nearly 7 years and despite their repeated demands to get the order executed, no response is forthcoming and left with no other option to approach this Court, the petitioner has approached this Court.

4. The Court heard the submission of Mr.D.Muruganandam, learned Additional Government Pleader, who seeks further time to get instructions.

5. This is an admitted fact that the respondent has passed an order as early as on 10.04.2009 under Section 14 of the SARFAESI Act and therefore, they have duty bound to implement the said order. Therefore, this Court is of the considered view that the petitioner may be permitted to submit one more representation and based on which, the respondent shall pass orders, after taking note of the order, dated 10.04.2009.

6. In the result, the writ petition is disposed of and the petitioner is granted liberty to submit a representation along with the copy of this order to the respondent within two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondent is directed to consider the said representation, in the light of order dated 10.04.2009 in Roc.C4/15652/2009 and pass orders within a further period of eight weeks thereafter on merits and in accordance with law and communicate the decision taken thereon, to the petitioner. However, there will be no order as to costs.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To

The Collector and District Magistrate,
Thoothukudi,
Thoothukudi District.

+1cc to M/S.SETHURAMAN,ADVOCATE SR.NO. 61079

JA-GSV-PM-SAR.3/19.10.2016/2P:3C

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