

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.05.2017

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
and
THE HONOURABLE MR. JUSTICE V. PARTHIBAN

W.P. No. 11617 of 2017

Vijaya Bank
Raja Plaza, Third Floor,
No.1112, Avinashi Road,
Coimbatore-641 037.
rep. by its Chief Manager &
Authorised Officer. ... Petitioner

Vs.

The District Collector,
(District Magistrate),
Coimbatore District,
Coimbatore. ... Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the respondent to pass appropriate orders in the petitioner's application received by him on 29.06.2016 under Section 14 of SARFAESI Act, rendering necessary assistance to the petitioner in terms of Section 14 of SARFAESI Act to take vacant physical possession of the secured asset as set out therein.

For Petitioner :: Mr. Ilayaraja for
M/s. Ramalingam and Associates

For Respondent :: Mr. R. Vijayakumar,
Additional Government Pleader

O R D E R

(Order of the Court was made by N. KIRUBAKARAN, J.)

The petitioner is a Bank, which granted loan to third parties, who are respondents 1 to 5 in the application filed by the petitioner before the District Magistrate cum District Collector, Coimbatore, under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security

Interest Act, 2002, (SARFAESI Act, in short) seeking protection for taking possession. The said application was filed on 29.06.2016 as the borrowers/respondents 1 to 5 therein failed to make repayment in spite of Section 13(2) notice dated 03.07.2015 and possession notice dated 19.09.2015 issued under the aforesaid Act. Eventhough the application has been filed before the respondent on 29.06.2016, till date, the same has not been disposed of, compelling the petitioner to approach this Court.

2. Heard Mr.Ilayaraja, learned counsel for the petitioner and Mr.R. Vijayakumar, learned Additional Government Pleader for the respondent.

3. Section 14 of SARFAESI Act, 2002 gives power to the District Magistrate to direct the subordinates to give assistance to the officials of petitioner Bank to take possession from the defaulted borrowers, without any problem.

4. Normally, the grievance of the petitioner should be given redressal only in the presence of contesting parties. However, the petitioner seeks only a direction to the respondent to pass orders in the application filed by the petitioner under Section 14 of the SARFAESI Act, 2002, wherein the borrowers are also parties. Since the borrowers are parties to the application filed by the petitioner before the respondent, it is appropriate to direct the respondent to dispose of the petitioner's application under Section 14 of the SARFAESI Act, 2002, at the earliest, after giving notice and after hearing all parties concerned.

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

Sd/-

Assistant Registrar(CS III)/V.O

//True Copy//

Sub Assistant Registrar

nv
To

The District Collector,
(District Magistrate),
Coimbatore District, Coimbatore.

+2cc to M/S.Ramalingam & Associates, Advocate Sr.36680

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