

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.13 of 2017
and
WMP No.6 of 2017

Raja ... Petitioner

versus

1. The District Collector
and District Magistrate,
Erode,
Erode District.

2. The Authorized Officer,
The Lakshmi Vilas Bank,
Mettupalayam Branch,
Coimbatore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari, calling for the records relating to the proceedings in Ref.No.10723/2016/D2 dated 23.10.2016 on the file of the 1st respondent to quash the same.

For Petitioner : Mr.L.Chandra Kumar

For Respondents: Mr.T.M.Pappiah
Special Government Pleader

ORDER

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

Proceedings of the District Collector and District Magistrate, Erode dated 23.10.2016 passed under Section 14 of the SARFAESI Act, 2002 authorising the Tahsildar, Sathyamangalam, to take physical possession of the mortgaged property and to seek the help of the police officials, if necessary to hand over the property to the authorised officer of the bank with proper acknowledgment, is impugned in this writ petition by the borrower, on the grounds inter alia that one time settlement, agreed by the bank, would not be honoured by the borrower, due to demonetization.

2. Added further, Mr.L.Chandra Kumar, learned counsel for the petitioner submitted that to prove the bonafides, petitioner has also deposited a sum of Rs.2,00,000/- by way of initial payment. As per the averments made in the supporting affidavit, on 20.09.2016, an One Time Settlement has been arrived at and the outstanding amount was Rs.90,00,000/-. Sum of Rs.2,00,000/- is stated to have been paid.

3. We are not inclined to accept the contentions of the petitioner that due to demonetization, one time settlement could not be honoured. What has been impugned in this writ petition, is an order under Section 14 of the SARFAESI Act, 2002. Any person aggrieved over the said order including the borrower can assail the correctness of the same on the grounds available. Merely because there was demonetization, due to which the petitioner could not mobilise funds, an order under Section 14 of the SARFAESI Act, 2002, cannot be set aside by this Court under Article 226 of the Constitution of India. It is always open to the petitioner to approach the forum for necessary relief.

4. In view of the above discussion, the writ petition is dismissed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ars
To

The District Collector and District Magistrate,
Erode, Erode District.

+ 1 cc to Government Pleader Sr.795

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