

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18/9/2017

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.24457 of 2017

The Cosmos Co-operative Bank Limited
A Co-operative Bank
registered under Multi-State Co-operative
Societies Act, 2002
rep. By its Authorised Officer & Manager
Mr.Gemtem Raja Rao
King Koti/Hyderabad Branch
Hyderabad.

Branch Office at

I Floor, No.223, Y Block
2nd Avenue, 6th Main Road
Anna Nagar
Chennai 600 040.

... Petitioner

Vs

The District Collector-cum-Magistrate
Kancheepuram
Kancheepuram District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of mandamus to direct the respondent to pass appropriate and necessary orders on the petition dated 10/3/2016 filed by the petitioner under Section 14 of the SARFAESI Act, 2002.

For Petitioner ... Mr.Varun Srinivasan
for M/s.N.V.S & Associates
For respondent ... Mr.V.Jayaprakash Narayanan
Special Government Pleader

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O R D E R

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

Material on record discloses that, Cosmos Co-operative Bank Ltd., represented by its Authorised Officer, has filed a petition, dated 10/3/2016, under Section 14 of the SARFAESI Act, 2002, before the District Collector-cum-Magistrate, Kancheepuram District, seeking assistance, for taking possession of the Schedule A and B properties, therein.

2. Responding to the above, the District Collector-cum-Magistrate, Kancheepuram District, vide proceeding, in R.C.No.8593/2016/M3, dated 2/6/2016, has sought for certain details, from the Tahsildar, Kancheepuram District. Bank has sent a letter, dated 22/6/2016, to the District Collector, Kancheepuram District, enclosing documents, in support of the claim. Thereafter, the District Collector-cum-Magistrate, Kancheepuram District, has sent another proceedings, in R.C.No.20377/2016/M3, dated 9/1/2017, to the Authorised Officer, Cosmos, Co-operative Bank Limited, Chennai, and followed by a further letter, dated 18/2/2017, was sent to the Sub-Collector, Kancheepuram District.

3. Responding to the above, the Sub-Collector, Kancheepuram, vide proceeding, in R.C.No.2935/16/A3, dated 14/3/2017, addressed a letter, to the Tahsildar, Kancheepuram, to conduct an enquiry and to submit a detailed report.

4. Inviting the attention of this Court, to the provisio to Section 14 of the SARFAESI Act, 2002 that an application filed before the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, has to be disposed of, within a period provided therefor, and contending inter alia that there is no other alternative and efficacious remedy, except to approach this Court, under Article 226 of the Constitution of India, Mr.Varun Srinivasan, learned counsel for the Bank has prayed to issue a mandamus, as prayed for.

5. When an application was filed before the District Collector-cum-Magistrate, seeking assistance, has to be disposed of, as expeditiously as possible, considering the parameters set forth in Section 14 of the SARFAESI Act, 2002.

6. Directions have also been issued by the Principal Secretary to Government, vide letter No.19498/Res.II/2014-1, dated 9/7/2014, that there should be speedy disposal of the application filed under Section 14 of the SARFAESI Act. The said letter is extracted hereunder:-

"I am to invite your kind attention to the reference cited (copy enclosed) wherein the GM, SLBC, Chennai, has requested to advise the District Collectors (District Magistrates) for speedy disposal of applications filed by banks to assist in taking possession of securities of the defaulters charged to the banks under Section 14 of SARFAESI Act, 2002.

2. In this connection, I am to request you to take necessary action for speedy disposal of the applications filed by the banks in taking possession of securities of the defaulters charged to the banks under Section 14 of SARFAESI Act, 2002, without affecting the image of the administration."

7. Material on record discloses that information sought for is stated to have been furnished by the Bank and despite requests, application filed under Section 14 of the SARFAESI Act is pending for more than six months.

8. Having regard to the period provided under Section 14 of the SARFAESI Act, and the directions of the Principal Secretary to Government, stated supra, mandamus is issued to the District Collector-cum-District Magistrate, to pass orders on the application, dated 10/3/2016, as expeditiously as possible, by not later than two months, from the date of receipt of a copy of this order.

9. With the above observation and direction, this writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mvs.

To

The District Collector-cum-Magistrate
Kancheepuram
Kancheepuram District.

W.P.No.24457 of 2017

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