

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2017

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.No.28498 of 2017

JM Financial Asset Reconstruction Company Ltd.
(Formerly JM Financial Asset Reconstruction
Company Pvt. Ltd.)
Rep. by Awadhesh Srivastava ... Petitioner

vs.

1. The District Magistrate Cum
District Collector,
Vellore.

2. M/s.Aascar Film Pvt. Ltd.,
Rep. by its Managing Director
V.Ravichandran

3. V.Ravichandran ... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, directing the 1st respondent to pass orders on the application bearing C/10834/2017 under Section 14 of the SARFAESI Act within such time frame on this Hon'ble Court may see fit to impose in accordance with law.

For Petitioner : Mr.Srinath Sridevan

For Respondents : Mr.M.Elumalai (for R1)
Government Advocate

ORDER

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

Seeking assistance for taking possession, JM Financial Asset Reconstruction Company Ltd. (Formerly JM Financial Asset Reconstruction Company Pvt. Ltd.), has filed application C1/10834/2017 dated 29.05.2017 under Section 14 of the SARFAESI Act, 2002, before the District Magistrate cum District Collector, Vellore.

2. According to the petitioner the said application is pending for a period of four months, since May 2017. Left with no other alternative, instant writ petition has been filed for a mandamus, directing the 1st respondent to pass orders on the application bearing C/10834/2017 under Section 14 of the SARFAESI Act within such time frame to be fixed by this Court.

3. When the matter came up on 08.11.2017, we directed Mr.M.Elumalai, learned Government Advocate to take notice on behalf of 1st respondent and revert.

4. On instructions from the District Magistrate cum District Collector, Mr.M.Elumalai, learned Government advocate submitted that report of the

concerned Tahsildar is awaited and therefore, order in application made

under Section 14 of the Act, could not be made. However, he prayed for four weeks time.

5. Heard the learned counsel appearing for the parties and perused the materials available on record.

6. Section 14 of the SARFAESI Act, 2002 mandates that on receipt of an affidavit from the Authorised Officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit, pass suitable orders for the purpose of taking possession of the secured assets, within a period of 30 days from the date of application. Proviso to the said Section states that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate, within the said period of thirty days, for the reasons beyond his control, he may after recording reasons, in writing, for the same, pass the order within such also period but not exceeding in aggregate 60 days.

7. The Principal Secretary to Government, vide, Letter No.19498/Res.II/2014-1, dated 09.07.2014, has issued directions, stating 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.”

8. Following the said letter, in W.P.No.7813 of 2016, dated 22.04.2016, a Hon'ble Division Bench of this Court, has passed the following order:-

“In the light of the above, we direct the District Collector (District Magistrate), Thanjavur District, to pass orders on the Application dated 18/8/2015 in file Ref.No.34810/2015, filed under Section 14 of the SARFAESI Act, within the period of two months from the date of receipt of a copy of this order. While doing so, procedure set out under Section 14 of the Act should be followed. Mr.B.Kumar, learned Additional Government Pleader is directed to forward the copy of this order to the Principal Secretary to Government, Finance (Res.II), Department, Chennai for appropriate follow up action. 10. Along with the supporting affidavit, to the instant writ petition, the petitioner has also enclosed the copies of the petitions, dated 8/1/2014, 7/5/2014, 11/9/2014, 24/12/2014 and

31/1/2015, filed under Section 14 of the SARFAESI Act, 2002.”

9. Placing on record the submission of the learned Government Advocate and in the light of the directions issued by the Principal Secretary to Government, vide, Letter No.19498/Res.II/2014-1, dated 09.07.2014 and the earlier order of this Court in W.P.No.7813 of 2016, dated 22.04.2016, this Court is inclined to pass the following orders,

“The District Magistrate-cum-District Collector, Vellore, is directed to dispose of the application dated 29.05.2017, if not done earlier, within a period of one month, from the date of receipt of a copy of this order. While doing so, District Magistrate-cum-District Collector, Vellore, should act in accordance with Section 14 of the SARFAESI Act, 2002.”

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

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(S.M.K., J.) (R.S.K., J.)
10.11.2017

Index: Yes/No.
Internet: Yes
Speaking/Non speaking

ars

S.MANIKUMAR, J.
AND
R.SURESH KUMAR, J.

ars

To

The District Magistrate Cum
District Collector, Vellore.



W.P.No.28498 of 2017

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