

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 4/1/2017

C O R A M

The Honourable Mr.Justice S.Manikumar
and
The Honourable Mr.Justice M.Govindaraj

Writ Petition No.44584 of 2016

National Trust Housing Finance Ltd
rep. By its Authorised Officer
Mr.Ravikannan
Chennai 600 002. Petitioner

Vs

1.The District Collector
Kancheepuram District.

2.Mr.M.Selvaraj

3.Mr.s.Mohan Babu

4.Mrs.S.Tamil Selvi Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the first respondent to dispose of the petition filed on 22/7/2014 under Section 14 of the SARFAESI Act for taking physical possession of the mortgaged property of the respondents 2, 3 and 4 herein within a reasonable time.

For petitioner Mr.S.Jayasankar
For respondents Mr.T.M.Pappiah
Special Government Pleader

O R D E R

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

National Trust Housing Finance Limited, represented by its Authorised Officer has filed the instant writ petition, for a writ of mandamus, directing the District Collector, Kancheepuram District/first respondent, to dispose of the petition, dated 22/7/2014, filed under Section 14 of the SARFAESI Act, 2002, for taking physical possession of the mortgaged property of respondent No.2/borrower and the

respondents 3 and 4/co-borrowers, within a reasonable time.

2. When the matter came up on 2/1/2017, we directed Mr.T.M.Papaiah, learned Special Government Pleader, to take notice for the first respondent, and to get instructions, as to why the above said application has not been disposed of.

3. Material on record discloses that taking note of the petition filed under Section 14 of the SARFAESI Act, 2002, the District Collector, Kumbakonam, vide proceeding, in R.C.No.4863/15/M 3, dated 25/2/2015, has directed the Tahsildar, Alandur, to submit a report.

4. Mr.T.M.Pappiah, learned Special Government Pleader, is not in a position to state as to whether the Tahsildar, Alandur has submitted a report, as called for.

5. Proviso to Section 14 of the SARFAESI Act, 2002, states 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 secured assets, within a period of thirty days from the date of application:

6. Second proviso to Section 14 of the Act 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 the reasons, in writing, for the same, pass the order within such also period but not exceeding in aggregate 60 days.

7. Section 14 does not contemplate any notice to the borrower and therefore, in the instant writ petition, notice to the respondents 2 to 4 is not necessary. However, the District Collector, Kumbakonam, before whom an application dated 22/7/2014, under Section 14 of the Act is made has to satisfy himself the parameters contained in Section 14 of the Act before passing an order, with reasons.

8. Though Mr.T.M.Pappiah, learned Special Government Pleader has sought for further time, having regard to the mandate of the Act that an order under Section 14 of the Act has to be made within the prescribed time and also taking note of the directions issued to the Tahsildar, we are inclined to pass the following order.

9. The District Collector, Kancheepuram District/first respondent is directed to dispose of the petition filed by the petitioner, dated 22/7/2014, if not done earlier, within a

period of four weeks from the date of receipt of a copy of this order. While doing so, District Collector/Kancheepuram District, 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mvs.

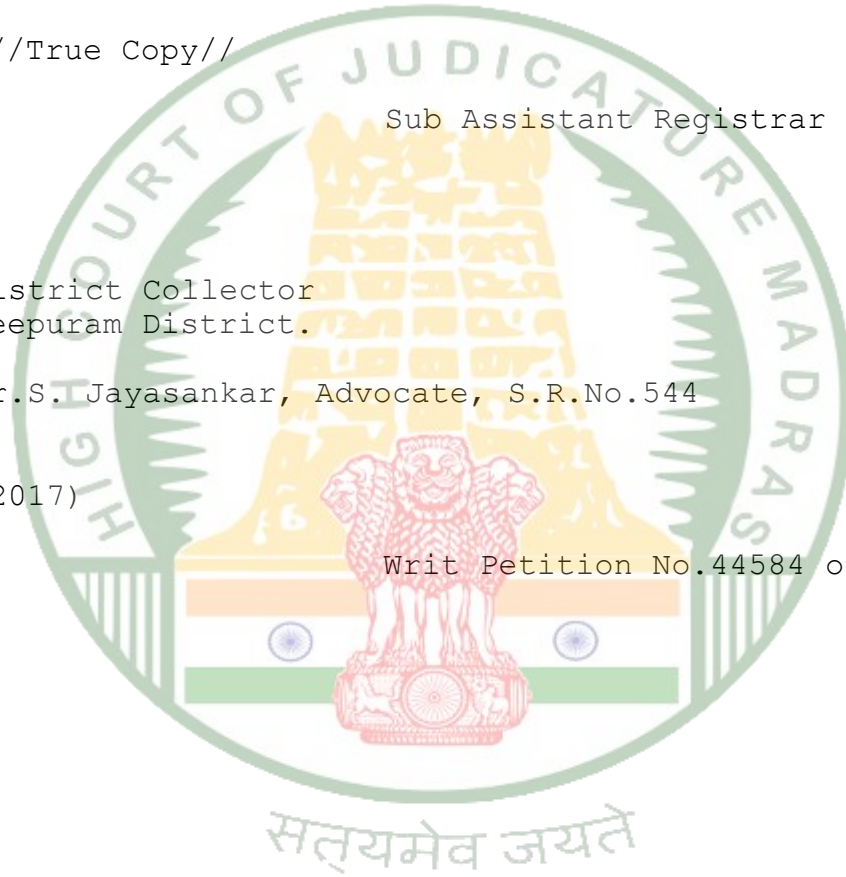
To

1. The District Collector
Kancheepuram District.

+1cc to Mr.S. Jayasankar, Advocate, S.R.No.544

GMI (CO)
md(08/02/2017)

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