



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P. (MD) No.1612 of 2017
and
C.M.P. (MD) No.1322 of 2017

Thirukadal Uthayam

... Petitioner

-vs-

1. City Union Bank Limited
Administrative Office
No.24-13, Gandhi Nagar
Kumbakonam
2. City Union Bank Limited
Tirunelveli Branch
93, East Car Street
Tirunelveli Town
Tirunelveli-627 006
3. The District Collector /
District Magistrate
District Collector Office
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the third respondent to consider the representation made by the petitioner, dated 29.12.2016 and direct him to take any action on the petition if any filed by the respondents 1 and 2 after giving due notice and hearing to the petitioner.

For Petitioner : Mr.T.Villavan Kothai

For Respondents : Mr.S.Siva Subramanian for R1 and R2

O R D E R

[Order of the Court by T.S.SIVAGNANAM, J.]

<https://hcservices.ecourts.gov.in/hcservices/> Heard Mr.T.Villavan Kothai, learned counsel appearing for the petitioner, Mr.S.Siva Subramanian, learned counsel appearing for the respondents 1 and 2 and perused the materials produced.



2. The prayer in this writ petition is for issuance of a writ of mandamus to direct the third respondent to consider the petitioner's representation, dated 29.12.2016, and to direct the third respondent to afford an opportunity of personal hearing to him, if the respondents 1 and 2 file any petition against him.

3. The petitioner is a borrower from the respondent - Bank and it is stated that as on date, the total amount repayable by the petitioner is Rs.16,30,30,677.80. On perusal of the averments set out in the accompanying affidavit filed in support of the writ petition and on reading of the prayer sought for, we are of the clear view that the relief sought for in this writ petition is thoroughly pre-mature. The writ petition has been filed presumably for the reason to interdict the proceedings initiated by the respondent - Bank, under Sections 13 and 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

4. As rightly pointed out by the learned counsel appearing for the respondents 1 and 2, the Honourable Supreme Court in the celebrated decision in **Mardia Chemicals Ltd. vs. Union of India**, reported in **(2004) 4 SCC 311**, has held that where a secured creditor is taken action under Section 13(4) of the SARFAESI Act, it will be open to the borrower to prefer appeal under Section 17 of the Act within the limited period prescribed therefor. Therefore, if the petitioner is aggrieved by any action initiated by the respondent - Bank or by the third respondent, it is open to him to approach the appropriate authority for necessary relief.

5. The writ petition is disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

+ 1 CC TO Mr.J.ALAGURAM JOTHI, ADVOCATE IN SR No. 50205
+ 1 CC TO Mr.S.SIVA SUBRAMANIAN, ADVOCATE IN SR No. 19035

KRK

TE/MR/SAR-II : 14/04/2017 : 2P/3C

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