



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P. (MD) No.23000 of 2017
and

W.M.P (MD) No.19327 of 2017

M/s.Marutee Agro Foods,
Represented by its
Managing Partner
Mrs.M.Rajalakshmi

: Petitioner

.vs.

1. The District Collector &
District Magistrate,
Tiruchirappalli District.

2. The Authorized Officer,
Central Bank of India,
Srirangam Branch,
Trichy.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceedings in K.Dis/G5/1561/2015 dated 28.11.2017 on the file of the 1st Respondent herein and quash the same consequently directing the 2nd Respondent to grant six months time to settle the loan pursuant to the one time settlement letter dated 01.06.2017.

For Petitioner	:Mr.V.Ilanchezian
For R-1	:Mr.T.R.Janarthanan, Additional Government Pleader
For R-2	:Mr.N.Dilipkumar

O R D E R

[Order of the Court was made by **M.VENUGOPAL, J.**]

Heard both sides. No Counter-affidavit is filed on behalf of
<https://hcservices.ecourts.gov.in/hcservices/>
Respondent Nos.1 and 2.



2. By consent, the main Writ Petition itself is taken up for final disposal.

3. The Petitioner has preferred the instant Writ Petition praying for passing of an order by this Court to call for the records relating to the proceedings of the First Respondent/District Collector & District Magistrate, Trichirappalli District dated 28.11.2017, whereby and whereunder, the Tashilsars of Mannachanallur, Musiri and Tiruchirappalli (East), were ordered to have assistance from the Inspector of Police, Mannachanallur Police Station, Pulivalam Police Station and Palakarai Police Station, if need arises. Further, the Commissioner of Police, Trichirappalli and the Superintendent of Police, Trichirappalli were requested to issue suitable instructions to the Inspector of Police, Mannachanallur Police Station, Pulivalam Police Station and Palakarai Police Station to render assistance to the Tahsildars of Mannachanallur, Musiri and Trichirappalli (East), for taking possession of the properties in question, as and when requested.

4. Per contra, the Learned Counsel for the Second Respondent/Bank relies on the decision of the Honourable Supreme Court of India in **Union Bank of India v. Satyawati Tondon and Others** reported in (2010) 8 Supreme Court Cases 110, wherein at Special Page Nos.122 and 123, at Paragraph Nos.41 and 42, it is observed as follows:

"41.The facts of the present case show that even after receipt of notices under Sections 13(2) and (4) and order passed under Section 14 of the SARFAESI Act, Respondents 1 and 2 did not bother to pay the outstanding dues. Only a paltry amount of Rs.50,000 was paid by Respondent 1 on 29.10.2007. She did give an undertaking to pay the balance amount in installments but did not honour her commitment. Therefore, the action taken by the appellant for recovery of its dues by issuing notices under Sections 13(2) and 13(4) and by filing an application under Section 14 cannot be faulted on any legally permissible ground and, in our view, the Division Bench of the High Court committed a serious error by entertaining the writ petition of Respondent 1.

42.There is another reason why the impugned order should be set aside. If Respondent 1 had any tangible grievance against the notice issued under Section 13(4) or action taken under Section 14, then she could have availed remedy by filing an application under Section 17 (1). The expression "any person" used in Section 17(1) is of wide import. It takes within its fold, not only



the borrower but also the guarantor or any other person who may be affected by the action taken under Section 13 (4) or Section 14. Both, the Tribunal and the Appellate Tribunal are empowered to pass interim orders under Sections 17 and 18 and are required to decide the matters within a fixed time schedule. It is thus evident that the remedies available to an aggrieved person under the SARFAESI Act are both expeditious and effective."

5. At this stage, a perusal of the affidavit of the Petitioner in the Writ Petition indicates that on taking possession of the schedule mentioned properties, the Bank will take possession of the properties so as to proceed further, of course, in the manner known to Law and in accordance with Law. Further, the Petitioner consequently in the Writ Petition seeks for passing of an order by this Court in directing the Second Respondent to grant six months time to settle the loan amount, pursuant to the one time settlement letter, dated 01.06.2017.

6. Considering the fact that the Petitioner in the main Writ Petition ultimately prays only for issuance of a direction by this Court to the Second Respondent in granting six months time to her, to settle the loan pursuant to the one time settlement letter dated 01.06.2017, this Court is of the considered view that the Petitioner can file necessary Petition/Application before the Debts Recovery Tribunal, Madurai to seek redressal of its grievance in the subject matter in issue viz., for granting of six months time, if it so desires/advised. To put it succinctly, in terms of the ingredients of the SARFAESI Act, 2002, the Petitioner has effective, efficacious, viable and alternative remedy of approaching the Debts Recovery Tribunal, Madurai.

7. Viewed in that perspective, this Court disposes of the Writ Petition by directing the Petitioner to approach the Debts Recovery Tribunal, Madurai and to seek remedy for the grant of six months time to settle the loan pursuant to the one time settlement letter dated 01.06.2017, of course, in the manner known to Law and in accordance with Law. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

The District Collector &
<https://hcservices.ecourts.gov.in/hcservices/>
District Magistrate,
Tiruchirappalli District.



Copy to

The Section Officer,
ER Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.V.Ilanchezian, Advocate Sr.No.92767
+1cc to Spl.Government Pleader Sr.No.92977
+1 cc to MR.N.DILIP KUMAR, Advocate SR.No.36203

PM

VB/GT/SAR4/29/12/2017/4P/6C

ORDER MADE IN
W.P. (MD) No.23000 of 2017
14.12.2017