BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2017

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**
**AND**
**THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

**W.P.(MD) No.4332 of 2017**

Bank of Baroda,
Door No.774,
Sri Kumaran Medical Centre Compound,
Near New Bus Stand,
Tirupur-641 602
represented through its Authorized Officer
at Regional Office in Aparna Towers,
Bypass road, Madurai. ... Petitioner

Vs.

District Magistrate / District Collector
Madurai ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue Writ of Mandamus, directing the respondent to consider petitioner's bank petition dated 19.09.2014 received by the respondent on 23.09.2014 within the time stipulated by this Court.

For Petitioner : Mr.Pala.Ramasamy
For Respondent : Mr.VR.Shanmuganathan
Special Government Pleader

**O R D E R**

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

Heard Mr.Palaramasamy, learned counsel for the petitioner and Mr.VR.Shanmuganathan, learned Special Government Pleader who accepts notice on behalf of the respondent.

2. With the consent on either side, the writ petition is taken up for disposal.

3. The petitioner is a nationalised bank and they seek for a direction to the respondent, the District Magistrate/District Collector, Madurai District, to consider their petition, dated 19.09.2014 seeking for assistance for taking possession of the property in exercise of his power under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred

as the SARFAESI Act).

4. It is submitted by the learned counsel for the petitioner that it is the Bank which has filed a petition before the Debts Recovery Tribunal and pursuant to which action has been initiated and the borrower, who is not a party in the present writ petition, has not initiated any legal proceedings against the action taken by the petitioner bank under the SARFAESI Act.

5. The grievance of the petitioner is that thought the petitioner bank has filed an application on 19.09.2014, so far the same has not been considered by the respondent. The learned counsel for the appellant has drawn the attention of this Court to the order passed by the Division Bench of this Court in W.P.(MD). No.12789 of 2016, dated 21.07.2016 (United Bank of India, vs. The District Collector/District Magistrate, Madurai District), wherein this Court has issued certain direction as to how and what manner, the District Collector has to exercise his power conferred under Sections 14 of the SARFAESI Act. At this juncture, it is worthwhile to refer the operative portion of the order hereunder:-

> "21.With the mounting arrears of debts to be recovered by the Banking sector in the country, it is imperative that the District Collector concerned shall deal with any such request made by the secured creditor as expeditiously as is possible and preferably with a maximum period of two months from the date of receipt of such request. The District Collector is also empowered to secure any information which is relevant and required for recording his satisfaction. The satisfaction of the District Collector, can be recorded in the files maintained in his office and the same shall also preferably be adverted to in the order which he passes, so as to clear all such possible doubts which persist in the minds of the borrowers as to whether the District Collector has truly been satisfied or not about the need and necessity, to exercise the power conferred under Section 14 of the Act. As noticed by us in this case, the District Collector, shall not insist for information to be furnished with regard to the possession of the secured asset lying with the secured creditor or not. That would amount to begging the question itself. It is possession of the secured asset were to be lying with the secured creditor, the need and necessity to invoke the provision contained under Section 14 of the Act itself would not arise"

We further find that the Division Bench has directed the Additional Chief Secretary to the Government and Chief Commissioner of Land Administration, Government of Tamil Nadu, Chennai to clarify to all the District Collectors concerned of the State, if necessary by circulating a copy of the order for the purpose of their guidance.

6. It is not clear as to whether the copy of the above said decision has been received by the respondent. Nevertheless, while exercising his power under Section 14 of the SARFAESI Act, the District Collector is required to act within a reasonable time, considering that debts have to be recovered by a nationalized bank, The learned Special Government Pleader would submit that sufficient time may be granted to the respondent to consider the petition.

7. In the light of the above, the writ petition stands disposed of by directing the petitioner bank to give a fresh representation to the respondent enclosing the order copy in W.P.(MD).No.12789 of 2016, and the copy of the order in this writ petition within a period of one week from the date of receipt of a copy of this order. On receipt of such representation, the respondent is directed to consider the same and pass orders in accordance with law, within a period of 4 weeks from that date, if there is no other legal impediment. No costs.

Sd/-
Assistant Registrar (C)

/True copy/

Sub Assistant Registrar

To
District Magistrate / District Collector,
Madurai.
+1 CC to Mr.Pala Ramasamy, Advocate, SR No.15696
+1 CC to M/s.The Special Government Pleader, SR No.15093.
JIKR
PSM/SV-MMS/SAR3/04.04.2017/3P/4C

ORDER MADE IN
W.P.(MD) No.4332 of 2017
15.03.2017