BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2017

CORAM:

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

W.P.(MD) No.7021 of 2017

Punjab National Bank
Nandhi Koil Street Branch
No.25, Nandhi Koil Street
Trichy-620 002
Represented by it's the Authorised Officer ... Petitioner

-vs-

The District Collector / District Magistrate
Trichirapalli District
Trichirapalli ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus to direct the respondent to pass appropriate orders in the application dated 23.03.2015 submitted under section 14 of the SARFAESI Act on behalf of the petitioner and rendering necessary assistance to the petitioner in terms of under section 14 of the SARFAESI Act to take vacant physical possession of the secured assets as set out therein.

For Petitioner : Mr.Balaji
for M/s.Vastlaw Associates
For Respondents : Mr.S.Chandrasekar
Government Advocate

O R D E R

(Order of the Court by **T.S.SIVAGNANAM, J.,**)

Heard Mr.Balaji, learned counsel appearing for the petitioner and Mr.S.Chandrasekar, learned Government Advocate, who accepts notice on behalf of the respondent and carefully perused the materials placed on record.

2. With the consent of both sides, the writ petition is taken up for disposal at the admission stage itself.

3. The petitioner is a Nationalized Bank and they seek for a direction to the respondent, the District Magistrate / District Collector, Trichirappalli District, to consider their petition, dated 23.03.2015, seeking for assistance for taking possession of the property in exercise of his power under Section 14 of the Securitization 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 - Bank 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 SARFAESI Act.

5. The grievance of the petitioner - Bank is that though they have filed an application on 23.03.2015, sofar the same has not been considered by the respondent. The learned counsel for the petitioner - Bank 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 directions as to how and what manner, the District Collector has to exercise his power conferred under Section 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, an 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"

6. 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.

7. 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 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 Government Advocate would submit that sufficient time may be granted to the respondent to consider the petition.

8. 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 a copy of the order, dated 21.07.2016, made in W.P.(MD).No.12789 of 2016 as well as a copy of this order, 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 four weeks thereafter, if there is no other legal impediment. No costs.

Sd/-
Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To:

The District Collector / District Magistrate,
Trichirapalli District,
Trichirapalli.

SKM/KRK/NB
PSM/SV-MMS/SAR3/27.04.2017/3P/2C