



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.7873 of 2017
and

W.M.P. (MD) Nos.6100 and 6101 of 2017

IDBI Bank Limited,
Represented by its Deputy General Manager &
Authorized Officer Sri.Harikesan Jeyakumar,
Having office at City Plaza B,
No.11 Main Road,
Dindigul - 624 001.
and also at
No.1/1, Karthick Raja Complex,
Melur Road, K.K.Nagar,
Madurai - 625 020.

.. Petitioner

Vs.

1. The District Collector / District Magistrate,
Dindigul District.
2. The Superintendent of Police,
Dindigul District.
3. The Assistant Collector,
Dindigul,
Dindigul District.
4. The Tahsildar,
Dindigul East Taluk,
Dindigul District.
5. The Tahsildar,
Aathoor Taluk,
Dindigul.
6. Kamaddennu Milk Dindigul Private Limited,
Represented by its Managing Director,
No.229 - 1A, 229-1B, 1C,
Veerakal to Vellagoundapatti Road,
Veerakal, Aathoor (Taluk), Dindigul - 624 303.

7.M.Chandrasekar

<https://hcservices.ecourts.gov.in/hcservices/>

8.V.Rajendran



9.V.Krishnakanth

10.B.Manoj

11.C.Anitha

12.S.Jeyapalan

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the impugned order dated 19.04.2017, under proceedings ROC No.1510/2016/C4, on the file of the 1st respondent and to quash the same as illegal for consequential orders.

For petitioner : Mr.K.R.Laxman
For R1 to R5 : Mr.M.Govindan
Special Government Pleader
For R6 & R8 : Mr.M.V.Venkataseshan
For R7,R9 to R12 : No appearance

ORDER

[Order of the Court was made by **G.R.SWAMINATHAN, J.**]

The petitioner Bank challenges the order dated 19.04.2017 passed by the first respondent putting the 6th respondent back in possession of the property in question.

2.According to the Writ Petitioner, the 6th respondent herein borrowed money from the Writ Petitioner bank and turned out to be a defaulter. Action was taken under the provisions of SARFEASI Act. The bank approached the first respondent under Section 14 of the Act.

3.The first respondent by order dated 15.03.2017 nominated the Assistant Collector of Dindigul as the Nodal Officer to take possession of the property in question. Thereafter, the said Nodal Officer took possession and handed over the same to the Writ Petitioner bank. Thereafter, on account of the order dated 12.04.2017 in I.A.636 of 2017 in S.A.No.139 of 2017, the impugned order came to be passed.

4.It is the contention of the learned counsel for the writ Petitioner that the District Collector / District Magistrate is authorised under Section 14 of the Act only to take possession from the borrower and hand over the same to the secured creditor. Effect restitution is not vested with the first respondent and it is not contemplated by Section 14 of the Act.



5. When the matter was taken up for hearing, the learned Counsel for the 6th respondent would point out that aggrieved by the measures taken under SARFEASI Act, the borrower had moved the Debts Recovery Tribunal, Madurai. This was on 27.03.2017. Due notice was given to the bank. On 05.04.2017, in the presence of the counsel for the Bank, the matter was reserved. When the matter was subjudice, the Bank had deliberately moved the first respondent and obtained order under Section 14 of the Act.

6. We do not appreciate the conduct of the writ petitioner. When the Debts Recovery Tribunal, Madurai was seized of the matter, the petitioner ought to have waited for the proceedings to conclude. In fact, on 05.04.2017, orders were reserved. Therefore, the Bank ought not to have moved the first respondent to frustrate or pre-empt the proceedings pending before the Debts Recovery Tribunal. That is why the first respondent chose to effect restitution after interim order was granted by Debts Recovery Tribunal. We are also informed that the Tribunal put the borrower on terms and that the terms have been complied with.

7. The borrower, in the counter affidavit, further pointed out that the writ petitioner received the payment made by the borrower in terms of the conditional stay order passed by the DRT. The borrower has also stated that he is willing to settle the entire dues in terms of by resorting to one time settlement. If the borrower is a running unit, possession was taken from them on 07.04.2017 and handed over on 21.04.2017. Therefore it would be inequitable to set aside the order impugned in the Writ Petition. We sustain the same. The first respondent rightly restored the possession to the borrower. We find no merit in this Writ Petition. Hence, this Writ Petition is dismissed. No Costs. Consequently, connected miscellaneous petitiones are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector / District Magistrate,
Dindigul District.

2. The Superintendent of Police,
Dindigul District.

<https://hcserviceapp.in/secure/>
3. The District Collector,
Dindigul,
Dindigul District.



4. The Tahsildar,
Dindigul East Taluk,
Dindigul District.

5. The Tahsildar,
Aathoor Taluk,
Dindigul.

+ 1 cc TO Mr.M.V.Venkataseshan , Advocate in SR No. 78998
+1cc to The Special Government Pleader in SR.No.79306

mm

AE/SV MMS/SAR3/09.11.2017/4P/8C

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and
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