



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CONT.P.[MD].No.1555 of 2016

The Authorized Officer,
State Bank of India,
Stressed Asset Management Branch,
No.1112, Raja Plaza, Avinashi Road,
Coimbatore 641 037.

: Petitioner

Vs.

Mr.N.Venkatachalam
District Magistrate/District Collector,
District Collectorate, Theni.

: Respondent

PRAYER: Petition is filed under Section 11 of the Contempt of Courts Act, 1971, to punish the contemnor, namely, Shri.N.Venkatachalam, District Magistrate/District Collector, Theni, for disobedience of the order dated 04.08.2016, made in W.P.(MD).No.13945 of 2016.

Prayer in WP(MD). 13945/ 2016 :

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Mandamus directing the Respondent to take appropriate action in the SARFAESI Application No.8282 of 2015 dated 03.03.2015 filed under Section 14 of the SARFAESI Act by the petitioner Banks within a specified dated to be fixed by this Honourable Court.

For Petitioner : Mr.S.Sethuraman

For Respondent : Mr.VR.Shanmuganathan
Special Government Pleader

O R D E R

[Order of the Court was made by R.SUBBIAH, J.]

The present Contempt Petition has been filed alleging that the order of this Court dated 04.08.2016, made in W.P.(MD).No.13945 of 2016, has not been complied with.



2. This Court, by order dated 04.08.2016, directed the respondent herein to consider and dispose of the application submitted by the petitioner in Application No.8282 of 2015, dated 02.01.2014, on merits and as per law, after issuing notice to the borrowers named in the notice issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and after giving them reasonable opportunity to submit their version.

3. Today, when the Contempt Petition was taken up for consideration, the learned Special Government Pleader for the respondent submitted that pursuant to the order of this Court dated 04.08.2016, the respondent passed an order, dated 05.01.2017, in which he had stated as follows:-

"11. Tahsildars Andipatti and Theni reported that tenants are residing in the item Nos.1 and 7 of the above said properties, for a long time.

12. According to recent amendment given to Section 17 of SARFAESI Act only Debts Recovery Tribunal shall have the jurisdiction to examine the claims of any tenancy for the purpose of enforcement of security interest. Out of the 4 above mentioned properties, tenants are residing in the two properties.

13. Considering the facts mentioned above and the Judgment rendered by the Hon'ble Supreme Court in Vishal N Kalsaria Vs. Bank of India & others, in Authorized Officer, M/s.State Bank of India, Stressed Assets Management Branch, Coimbatore, is hereby informed that there is no jurisdiction for the District Magistrate to take and hand over the possession of the properties mentioned in item Nos.1 and 7, which are occupied by the tenants. Hence, physical possession of this property also cannot be taken and handed over to the Bank at this stage".

4. In view of the above order, dated 05.01.2017, we are of the considered view that nothing survives for adjudication in this Contempt Petition. However, the learned counsel for the petitioner submitted that the respondent may be directed to furnish the particulars about the tenants residing in the properties mentioned in item Nos.1 and 7, for which the learned Special Government Pleader for the respondent submitted that the details, as sought for by petitioner, would be furnished by the respondent, within a period of two weeks from the date of receipt of a copy of this



5. Recording the said submission, the Contempt Petition is closed.

Sd/
Assistant Registrar(CS-I)

WEB COPY /True Copy/

Sub Assistant Registrar.

To

Mr.N.Venkatachalam
District Magistrate/District Collector,
District Collectorate, Theni.

+1CC to M/S.V.Karthikeyan, Advocate, SR.No. 1549
+1CC to the Special Government Pleader, SR.No. 1975

ORDER MADE IN
CONT.P.[MD].No.1555 of 2016
09.01.2017

NB
AM/SS3/19.01.2017/3P/4C