

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.No.7370 of 2018

M/s.Kotak Mahindra Bank,
Reg. Office at:
27BKC, C27, G Block, Bandrakurla Complex,
Bandra (E), Mumbai - 400 051,
Branch Office at:
M/s.Kotak Mahindra Bank,
1st Floor, Ceebros Centre,
No.45, Montieth Road,
Egmore, Chennai - 600 008,
Rep. by its Authorised Officer,
Mr.Felix Besil.

... Petitioner

vs.

1. The District Collector / Magistrate,
Thiruellur.

2. Mr.V.G.Jeyakumar

3. M/s.Sri Ganga Transport,
Rep. by its Proprietor Mr.V.G.Jayakumar

... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, directing the 1st respondent to pass orders on the petition filed on 6.1.2017 U/s.14(1) of SARFAESI Act, within the time stipulated by this Hon'ble Court.

For Petitioner : Mr.M.Ajmal Azzath

For Respondents : Mr.J.Ramesh (for R1)
Additional Government Pleader.

ORDER

(Order of the Court was delivered by S.MANIKUMAR, J)

For taking possession, M/s.Kotak Mahindra Bank, represented by its Authorised Officer, Chennai has filed an application dated 06.01.2017 under Section 14 of the SARFAESI Act, 2002 to the District Collector/Magistrate, Thiruvallur District, the 1st respondent herein. As the abovesaid application is pending for the last fifteen months, petitioner has sought for a writ of mandamus, directing the District Collector/Magistrate, Thiruvallur District, to pass orders within a time frame. Respondents 2 and 3 are the borrower and guarantor, respectively.

2. As the District Collector/Magistrate, Thiruvallur District, the 1st respondent is bound to pass orders on the application, we are of the view that there is no need to issue notice to respondents 2 and 3. Hence, notice to respondents 2 and 3, is waived.

3. On this day, when the writ petition came up for admission, on instructions, Mr.J.Ramesh, learned Additional Government Pleader submitted that orders are yet to be passed in the application filed under Section 14 of the SARFAESI Act, 2002 and that report of the concerned Tahsildar, is awaited. He prayed for three weeks time.

4. Section 14 of the SARFAESI Act, 2002 mandates that on receipt of an affidavit from the Authorised Officer, the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall after satisfying the contents of the affidavit, pass suitable orders for the purpose of taking possession of the secured assets, within a period of 30 days from the date of application. Proviso to the said Section states that if no order is passed by the Chief Metropolitan Magistrate or District Magistrate, within the said period of thirty days, for the reasons beyond his control, he may after recording reasons, in writing, for the same, pass the order within such also period but not exceeding in aggregate 60 days.

5. The Principal Secretary to Government, vide, Letter No.19498/Res.II/2014-1, dated 09.07.2014, has issued directions, stating that there should be speedy disposal of the applications filed under Section 14 of the SARFAESI Act. The said letter is extracted hereunder:-

“I am to invite your kind attention to the reference cited (copy enclosed) wherein the GM, SLBC, Chennai, has requested to advise the District Collectors (District Magistrates) for speedy disposal of applications filed by banks to assist in taking possession of securities of the defaulters charged to the banks under Section 14 of SARFAESI Act, 2002.

2. In this connection, I am to request you to take necessary action for speedy disposal of the applications filed by the banks in taking possession of securities of the defaulters

charged to the banks under Section 14 of SARFAESI Act, 2002, without affecting the image of the administration.”

6. Following the said letter, in W.P.No.7813 of 2016, dated 22.04.2016, a Hon'ble Division Bench of this Court, has passed the following order:-

“In the light of the above, we direct the District Collector (District Magistrate), Thanjavur District, to pass orders on the Application dated 18/8/2015 in file Ref.No.34810/2015, filed under Section 14 of the SARFAESI Act, within the period of two months from the date of receipt of a copy of this order. While doing so, procedure set out under Section 14 of the Act should be followed. Mr.B.Kumar, learned Additional Government Pleader is directed to forward the copy of this order to the Principal Secretary to Government, Finance (Res.II), Department, Chennai for appropriate follow up action. 10. Along with the supporting affidavit, to the instant writ petition, the petitioner has also enclosed the copies of the petitions, dated 8/1/2014, 7/5/2014, 11/9/2014, 24/12/2014 and 31/1/2015, filed under Section 14 of the SARFAESI Act, 2002.”

7. Placing on record the submission of the learned Additional Government Pleader and in the light of the directions issued by the Principal Secretary to Government, vide, Letter No.19498/Res.II/2014-1, dated 09.07.2014 and the earlier order of this Court in W.P.No.7813 of

2016, dated 22.04.2016, this Court is inclined to pass the following orders,

“The District Collector/Magistrate, Thiruvallur District, is directed to dispose of the application dated 06.01.2017, if not done earlier, within a period of three weeks, from the date of receipt of a copy of this order. While doing so, District Collector/Magistrate, Thiruvallur, should act in accordance with Section 14 of the SARFAESI Act, 2002.”

8. With the above observation and direction, this writ petition is disposed of accordingly. No costs.

(S.M.K., J.) (M.G.R., J.)
28.03.2018

Index: Yes/No
Internet: Yes.
Speaking / Non-speaking order.
ars

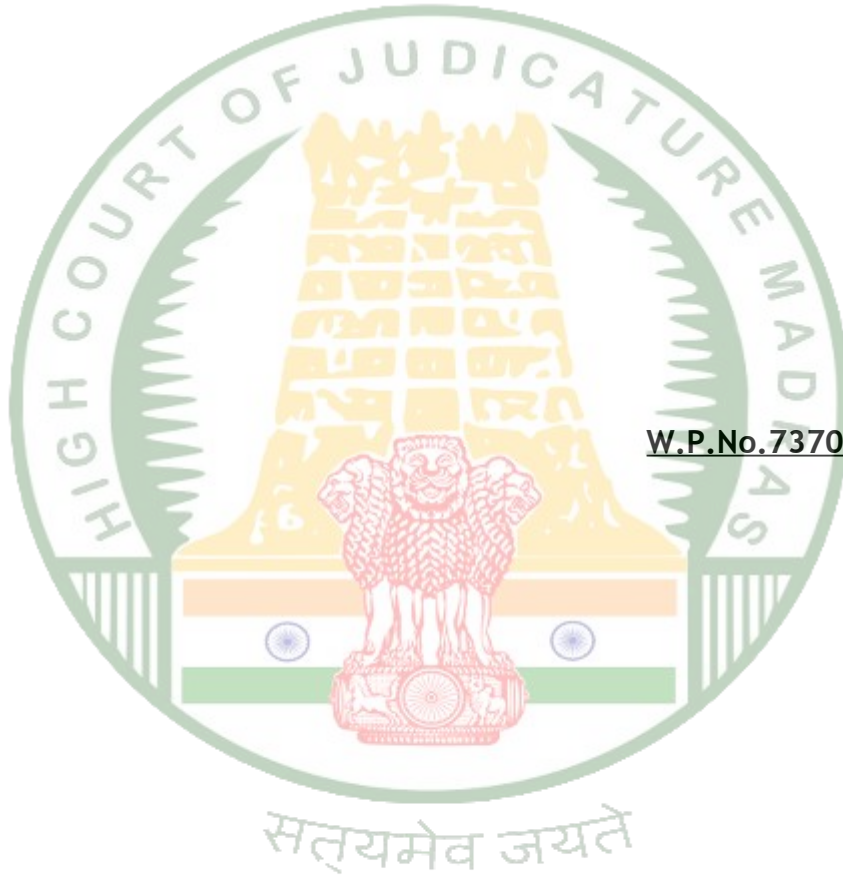
To

The District Collector/Magistrate,
Thiruvallur District,
Thiruvallur.

WEB COPY

S.MANIKUMAR,J.
AND
M.GOVINDARAJ, J.

ars



W.P.No.7370 of 2018

WEB COPY

28.03.2018