

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.4671 of 2018

Magma Housing Finance,
Rep by its Authorized Officer,
Mr.M.Shiva Sudhaakar,
Navin's Presidium, 7-A, B.Block,
New No.17-19, Old No.103,
Nelson Manickam Road,
Chennai - 600095. Petitioner

vs.

1.The District Collector-cum-District Magistrate,
District Collectorate,
Thiruvallur - 602001.

2.A.Elumalai

3.Lakshmi

.... Respondents

Prayer: WRIT Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus, directing the 1st respondent to dispose the application filed by the petitioner under Section 14 of the SARFAESI Act, 2002, dated 06.06.2017, within a time frame.

For Petitioner : Mr.J.Zeakumar

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

ORDER

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

For taking possession, Magma Housing Finance, represented by its authorized officer, Chennai, has filed application, dated 06.06.2017, under Section 14(1) of the SARFAESI Act, 2002 to the District Collector-cum-District Magistrate, Thiruvallur District, first respondent herein. As the abovesaid application was pending for the last nine months, the petitioner has sought for a writ of mandamus, directing the first respondent, to pass orders. Respondents 2 and 3 are the borrowers.

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

3. On this day, when the writ petition came up for admission, on instructions, from the Office of the District Collector-cum-District Magistrate, Thiruvallur District, Mr.J.Ramesh, learned Additional Government Pleader submitted that orders are yet to be passed on the application, filed under Section 14(1) of the SARFAESI Act, 2002 and that enquiry is yet to be completed. 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.III/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 Government Advocate 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 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-cum-District Magistrate, Thiruvallur District, is directed to dispose of the application dated 06.06.2017, 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-cum-District Magistrate, Thiruvallur District, 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.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

WEB COPY
Sub Assistant Registrar

dm

To

The District Collector-cum-District Magistrate,
District Collectorate,
Thiruvallur - 602001.

+1cc to The Government Pleader, sr.16697
+1cc to Mr.J.Zeakumar,Advocate, sr.16483

W.P.No.4671 of 2018

RMP (23/03/2018)



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