

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2018

CORAM:

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

W.P.Nos.378 and 379 of 2018

M/s.FederalBank Ltd.,
Asset Recovery Branch,
No.57, Royapettah High Road,
Chennai - 600 014,
Rep. by its AVP,
Shri Roopchand C.R.

... Petitioner
in both WPs

vs.

1.The District Magistrate cum District Collector,
O/o the District Collector,
District Collectorate,
Thiruvallur District.

... Respondent
in W.P.No.378 of 2018

2.The District Magistrate cum District Collector,
O/o the District Collector,
District Collectorate,
Kancheepuram District.

... Respondent
in W.P.No.379 of 2018

Common Prayer: WRIT Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, directing the respondent herein to pass orders on the petitions, dated 15.06.2017 and 31.05.2017 respectively, filed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002, with in a time frame.

For Petitioner : Mr.S.Sathiyamarayanan
in both WPs.

For Respondent : Mr.M.Elumalai
Government Advocate
in both WPs.

COMMON ORDER

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

For taking physical possession, M/s.Federal Bank Ltd., represented by its authorised officer, Chennai, has filed applications, dated 15.06.2017 and 31.05.2017 respectively, under Section 14(1) of the SARFAESI Act, 2002, to the District Magistrate cum District Collector, Thiruvallur District and the District Magistrate cum District Collector, Kancheepuram District, respondents 1 and 2 herein, in both the Writ Petitions. As the abovesaid applications are pending till date, the petitioner has sought for a writs of mandamus, directing the respective respondent, to pass orders.

2. On this day, when the writ petitions came up for admission, on instructions, from the Office of the District Magistrate cum District Collector, Thiruvallur District and the District Magistrate cum District Collector, Kancheepuram District, respondent herein, in both the Writ Petitions, Mr.M.Elumalai, learned Government Advocate, submitted that orders are yet to be passed in the applications, filed under Section 14(1) of the SARFAESI Act, 2002. Enquiry is yet to be completed and he prayed for four weeks time.

3. 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 applications. 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.

4. 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."

5. 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."

6. 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 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 Magistrate cum District Collector, Thiruvallur District and the District Magistrate cum District Collector, Kancheepuram District, are directed to dispose of the applications dated 15.06.2017 and 31.05.2017 respectively, if not done earlier, within a period of four weeks, from the date of receipt of a copy of this order. While doing so, District Magistrate cum District Collector, Thiruvallur District and the District Magistrate cum District Collector, Kancheepuram District, should act in accordance with Section 14 of the SARFAESI Act, 2002."

7. With the above observation and direction, these writ petitions are disposed of accordingly. No costs.

Sd/-
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

asr

To

1.The District Magistrate cum District Collector,
O/o the District Collector,
District Collectorate,
Thiruvallur District.

2.The District Magistrate cum District Collector,
O/o the District Collector,
District Collectorate,
Kancheepuram District.

+2cc to Mr.S.Sathiyamarayanan, Advocate SR.No.2607,2608 (13/02/18)

+1cc to Government Pleader SR.No.2405

W.P.Nos.378 and 379 of 2018

RR (CO)
GN (07/02/2018)

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