

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.2470 of 2018

M/s.Pegasus Assets Reconstruction
Private Limited,
No.55-56, 5th Floor, Free Press House,
Nariman Point, Mumbai - 400 021.

Having local office at
No.23, New No.13, McNichols Road,
Chetpet, Chennai - 600 031.

.... Petitioner

vs.

The District Collector
(District Magistrate)
Thirvallur District, Thiruvallur.

.... Respondent

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, directing the respondent to pass appropriate orders in the application dt. 29.2.2016 in file Ref.RC.No.4690/2016/M2, submitted under Section 14 of the SARFAESI Act by the Assignor of the petitioner and being prosecuted by the petitioner as the assignee, rendering necessary assistance to the petitioner in terms of Section 14 of the SARFAESI Act by substituting in the place of the Original Lender, to take vacant physical possession of the secured assets as set out in the Sec-14 Application pending with the respondent.

For Petitioner : Mr.Elaya Rajkumar
for M/s.Ramalingam and Asso.

For Respondent : Mr.J.Ramesh
Additional Government Pleader

ORDER

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

Seeking assistance for taking possession, M/s.Pegasus Assets Reconstruction Private Limited., has filed application bearing Ref.Rc.No.4690/2016/M2 dated 29.02.2016 under Section 14 of the SARFAESI Act, 2002, before the District Collector (District Magistrate), Thiruvallur.

2. According to the petitioner the said application is pending for nearly two years. Left with no other alternative, instant writ petition has been filed for a mandamus, directing the respondent to pass orders on the application bearing Ref.Rc.No.4690/2016/M2 dated 29.02.2016 under Section 14 of the SARFAESI Act, within such time frame to be fixed by this Court.

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 he prayed for three weeks time.

4. Heard the learned counsel appearing for the parties and perused the materials available on record.

5. 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.

6. 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 application 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."

7. 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."

8. 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 Collector (District Magistrate), Thiruvallur, is directed to dispose of the application dated 29.02.2016, 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 (District Magistrate), Thiruvallur, should act in accordance with Section 14 of the SARFAESI Act, 2002."

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ars

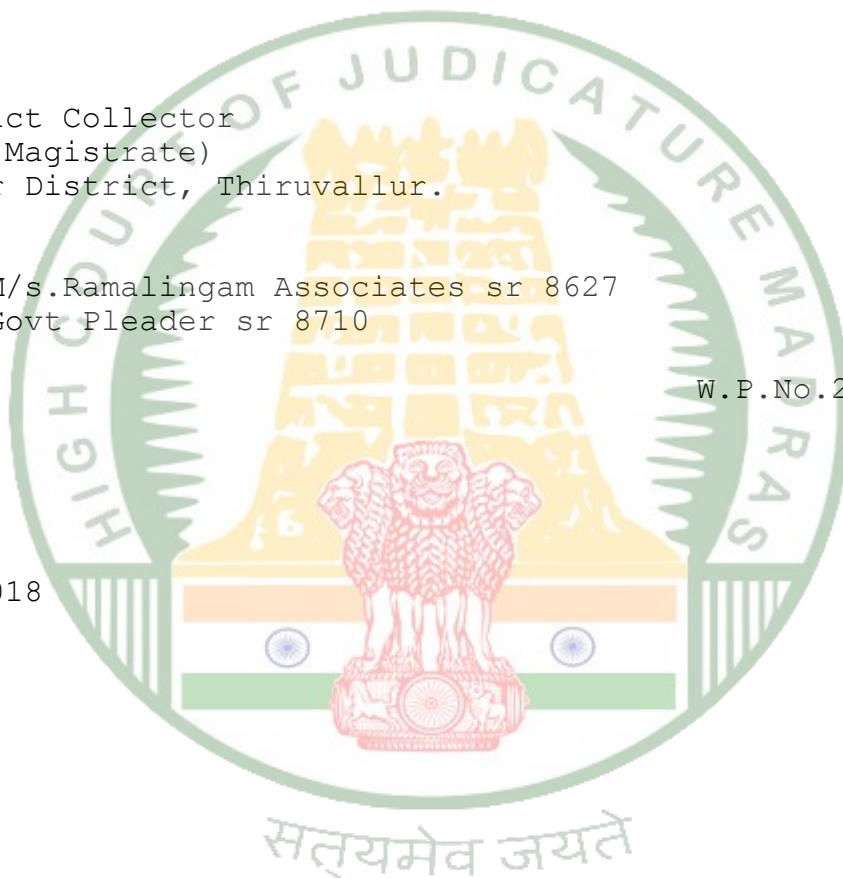
To

The District Collector
(District Magistrate)
Thirvallur District, Thiruvallur.

+1 cc to M/s.Ramalingam Associates sr 8627
+1 cc to Govt Pleader sr 8710

W.P.No.2470 of 2018

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