

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.1347 of 2018

M/s.Kotak Mahindra Bank,

Reg office at:

27BKC, C27, G Block, Bandrakurla Complex,

Bandra (E), Mumbai-400 051,

M/s.Kotak Mahindra bank,

1st Floor, Ceebros Centre,

No.45 Montieth Road,

Egmore, Chennai-600008,

Rep. By its Authorised Office,

Mr.Ashok Swami.

.... Petitioner

vs.

1.The District Collector/Magistrate
Pondicherry.

2.K.Rajarajan

3.T.Comady

4.M/s.Rajanrajan & Sons,
No.45-46, 3rd Cross,
Sithananda Nagar,
Puducherry - 605 005.

5.M/s.Rajarajan Automobiles,
No.1-1, Jayankondam Road,
Ariyalur Post & Taluk,
Perambalur - 621 704.

... 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 29.09.2015 under Section 14(1) of the SARFAESI Act, within the time stipulated.

For Petitioner : Mr.M.Ajmal Azzath

For Respondents : Mr.C.T.Ramesh (for R1)
Additional Government Pleader (P)

ORDER

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

For taking possession, M/s.Kotak Mahindra Bank, represented by its authorised officer, Chennai, has filed application, dated 29.09.2015, under Section 14(1) of the SARFAESI Act, 2002 to the District Collector / Magistrate, Pondicherry, first respondent herein. As the abovesaid application was pending for the last two years and four 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 / Magistrate, Pondicherry, 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, from the Office of the District Collector / Magistrate, Pondicherry, Mr.C.T.Ramesh, learned Additional Government Pleader (P) 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 six 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 (P) 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/Magistrate, Pondicherry, is directed to dispose of the application dated 29.09.2015, 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 Collector/Magistrate, Pondicherry, 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//

Sub Assistant Registrar

dm

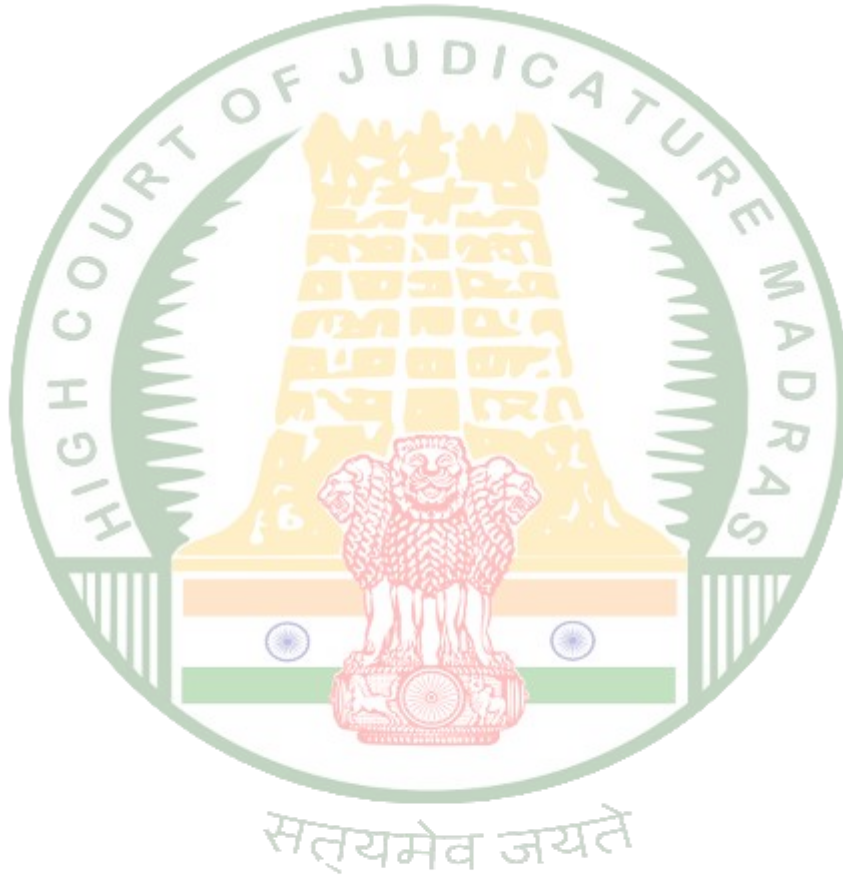
To

The District Collector/Magistrate
Pondicherry.

+1cc to Mr.M.Ajmal Azzath, Advocate, S.R.No.6070

W.P.No.1347 of 2018

NRK (CO)
RRK (15/02/2018)



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