

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19/6/2018

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.14564 of 2018

Magma Housing Finance Ltd
rep. by its Authorised Officer
Mr.M.Shiva Sudhaakar
Navin's Presidium
7 B, B Block, New No.17-19
Old No.103 Nelson Manickkam Road
Chennai 600 029. ... Petitioner

Vs

1. The District Collector/District Magistrate
Krishnagiri.
2. K.R.Govindaraju @ Govindappa
3. S. Sathyavathi
4. Sri.Venkateswara Modern Rice Mill
No.72-C Kamandoddi Village
Hosur 635 109
Krishnagiri District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of mandamus to direct the first respondent to pass orders on the petitioner's application dated 11/12/2017, filed under Section 14 of the SARFAESI Act, 2002 forthwith.

For petitioner ... Mr.G.Giridharan

For respondents ... Mr.M.Sricharan Rangarajan
Additional Government Pleader
for R.1

O R D E R

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

Magma Housing Finance Limited, Chennai, represented by its Authorised Officer, has sought for a writ of mandamus, directing the District Collector cum District Magistrate, Krishnagiri, to pass orders, on the petitioner's application, dated 11/12/2017, filed under Section 14 of the SARFAESI Act, 2002.

2. As the District Collector cum District Magistrate, Tiruppur, 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 to 4. Hence, notice to respondents 2 to 4, is waived.

3. Heard the learned counsel for the petitioner and the learned Government Advocate, appearing for the first respondent and perused the materials available on record.

4. As per 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 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."

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 Rel.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. In the light of the directions issued by the Principal Secretary to Government, vide, Letter No.19498/Res.II/2014-1, dated 9/7/2014 and earlier order of this Court in W.P.No.7813 of 2016, dated 22/4/2016, this Court is inclined to pass the following orders,

"The District Collector cum District Magistrate, Krishnagiri is directed to dispose of the application of the petitioner, dated 11/12/2017, 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 cum District Magistrate, Krishnagiri, 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.
mvs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector/District Magistrate
Krishnagiri.

+1cc to Mr.G.Giridharan, Government Advocate SR.No.38199
+1cc to Government Pleader Sr.No.39118

SPD(co)

sm:4.7.2018

W.P.No.14564 of 2018