

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2018

CORAM:

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

W.P.No.14847 of 2018

Oriental Bank of Commerce
Rep. by its Chief Manager,
Mr.S.C.Mishra

... Petitioner

vs.

1. District Magistrate Cum District Collector,
Salem, Salem District.

2. M/s.Vinayaka Mission Research Foundation,
Sankari Main Road (NH-47),
Ariyanoor, Salem - 636 308.

3. Smt.S.Sumathy

4. Shri.S.Saravanan

5. Smt.S.Arunadevi

6. Shri.A.S.Ganesan

7. Smt.S.Annapoorani

8. M/s.Thirumuruga Kirubananda Variyar
Thavathiru Sundara Swamikal Medical Education
and Charitable Trust,
Sankari Main Road (NH-47),
Ariyanoor, Salem - 636 308

... 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 an order in petitioners section 14(1) & (2) SARFAESI Act petition 30.11.2017 (No.34046/2017 dated 06.12.2017) and to handover the vacant possession pending on the file of 1st respondent within a time frame as may be fixed by this Hon'ble Court.

For Petitioner : Ms.L.Poompavai

For Respondents: Mr.Manikandan (for R1)
Government Advocate.

ORDER

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

Seeking assistance, for taking physical possession, Oriental Bank of Commerce, Chennai, has filed petition dated 30.11.2017, under Section 14 of the SARFAESI Act, 2002, before the District Magistrate cum District Collector, Salem, Salem District.

2. According to the petitioner, the said petition is pending for nearly seven months. Requisition sent by the petitioner, though acknowledged, has not been responded. Left with no other alternative, instant writ petition has been filed for a mandamus, directing the 1st respondent, to pass orders on the petition dated 30.11.2017 filed under Section 14 of the SARFAESI Act, within such time frame to be fixed by this Court.

3. Respondents 2 to 8 are the borrowers. As the District Magistrate cum District Collector, Salem, Salem District, 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 8. Hence, notice to respondents 2 to 8, is waived.

4. On this day, when the writ petition came up for admission, on instructions, Mr.N.Manikandan, learned Government Advocate submitted that orders are yet to be passed in the application filed under Section 14 of the SARFAESI Act, 2002. He prayed for four weeks time.

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

6. 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.

7. 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."

8. 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."

9. 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 following the earlier order of this Court in W.P.No.7813 of 2016, dated 22.04.2016, it is ordered as hereunder:-

"The District Magistrate cum District Collector, Salem, Salem District, is directed to dispose of the application dated 30.11.2017, 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 Magistrate cum District Collector, Salem, Salem District, should act in accordance with Section 14 of the SARFAESI Act, 2002."

10. With the above direction, this writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar (CS VII)

//True copy//

Sub Assistant Registrar

ars

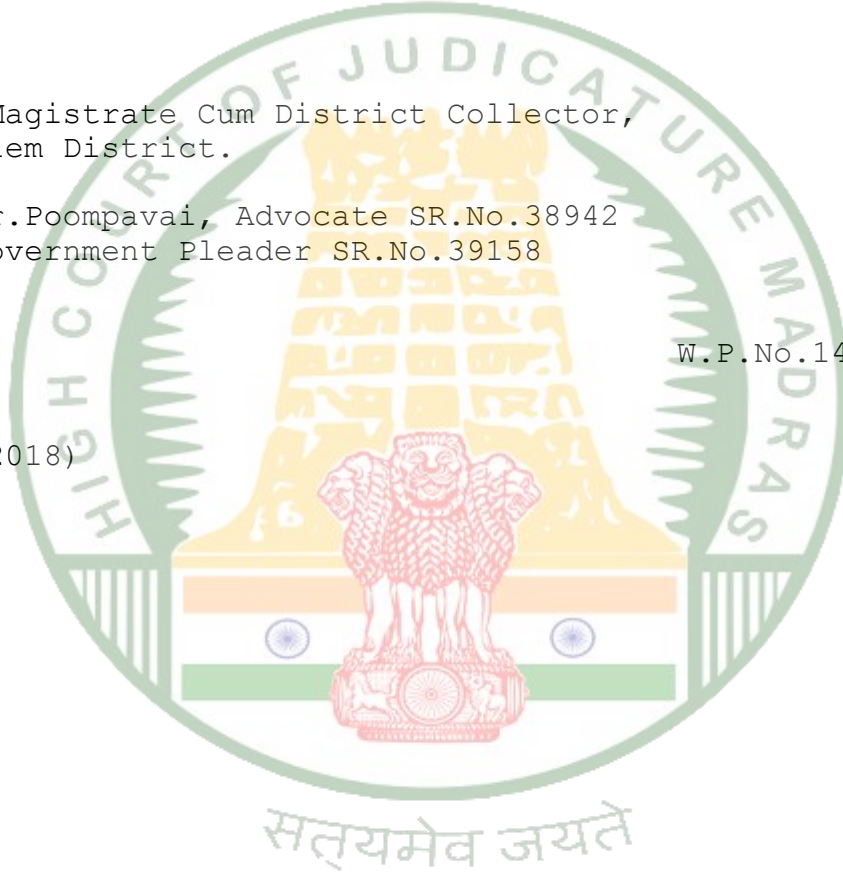
To

District Magistrate Cum District Collector,
Salem, Salem District.

+1cc to Mr.Poompavai, Advocate SR.No.38942
+1cc to Government Pleader SR.No.39158

W.P.No.14847 of 2018

SJ(CO)
GN(04/07/2018)



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