

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.07.2018

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THE HON'BLE MR.JUSTICE R.SUBBIAH

and

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.19289 of 2018

and

W.M.P.No.22661 of 2018

The South Indian Bank Ltd.,
having its Regional Office at
Niagara Apartments, No.1,
Sterling Road, Nungambakkam,
Chennai-34,
rep by its Chief Manager
and Authorised Officer.

... Petitioner

Vs.

1.The District Collector,
Kancheepuram,
Tamil Nadu.

2.The Tahsildar,
Kancheepuram Taluk,
Kancheepuram District,
Tamil Nadu.

... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to dispose of the application filed under Section 14 of SARFAESI Act on 22.09.2017, within a time frame.

For Appellant : Mr.S.Arunkumar

For Respondents : Mr.S.Parthasarathy, GA

ORDER

(Judgment of the Court was delivered by R.SUBBIAH, J.,)

The writ petition has been filed by the petitioner seeking to direct the respondents to dispose of the application filed under Section 14 of SARFAESI Act on 22.09.2017, within a time frame.

2. In the affidavit filed in support of the writ petition, it has been averred by the petitioner that the petitioner-Bank had sanctioned overall credit facilities to the tune of Rs.5 crores to one K.Saravanan on 17.06.2015 and to secure the repayment of loan liability, the said borrower and guarantors viz., one Mr.K.Murugadoss and Mr.N.Kanniappan had offered collateral security of immovable properties by depositing original title deeds with an intention to create Equitable Mortgage in terms of Section 58(f) of Transfer of Property Act. In confirmation of the same, they have executed memorandum relating to deposit of title deeds registered as Doc.No.4366/2015 on the file of the Sub-Registrar Office (Joint-Iv), Kancheepuram. Since the borrower had defaulted in repaying the outstanding loan amount, the loan account was classified as NPA on 31.03.2017 in terms of RBI guidelines. The petitioner/Bank had caused a demand notice under Section 13(2) of the SARFAESI Act on 12.04.2017 directing the borrower and guarantors jointly and severally to repay a sum of Rs.5,24,55,075.20 within 60 days thereof, but, there was no response from the borrower. Hence, the petitioner/Bank was constrained to take symbolic possession of the secured property by causing possession notice under Section 13(4) of the said Act on 05.07.2017. The said possession notice was duly published in two leading news papers on 08.07.2017 and the possession notice was also duly affixed on the secured property. Even after the receipt of possession notice on 07.07.2017 and 08.07.2017, the borrower and guarantors have shown recalcitrant attitude to repay the outstanding loan amount. Since the borrower and guarantors are in physical possession of the secured property, the petitioner-Bank had filed an application under Section 14 of the SARFAESI Act before the 1st respondent herein on 22.09.2017. The petitioner/Bank had approached the 1st respondent on number of occasions to expedite the said application filed under Section 14 of the SARFAESI Act. Subsequently, the 1st respondent had sent a letter to the 2nd respondent on 05.01.2018 seeking for details pertaining to the secured property. Even after the receipt of the said letter dated 05.01.2018, the 2nd respondent has not come forward to execute the order passed by the 1st respondent herein. Since the petitioner's application under Section 14 of SARFAESI Act was not considered by the respondents, the petitioner has come forward with the present writ petition.

3. Heard both sides and perused the materials available on record.

4. Considering the scope of the prayer of the petitioner and also the fact that the petitioner's application under Section 14 of SARFAESI Act is pending for almost 11 months, this Court is of the view that it would be appropriate to direct the

respondents to dispose of the same within a specific time frame.

5. Accordingly, without going into the merits of the claim made by the petitioner, this Court directs the respondents to dispose of the petitioner's application filed under Section 14 of SARFAESI Act dated 22.09.2017, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, this writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ssv

To,

1. The District Collector,
Kancheepuram,
Tamil Nadu.

2. The Tahsildar,
Kancheepuram Taluk,
Kancheepuram District,
Tamil Nadu.

+1cc to Mr.M.L.Ganesh, Advocate, S.R.No. 51080

+1cc to the Government Pleader, S.R.No. 51377

W.P.No.19289 of 2018

and

W.M.P.No.22661 of 2018

NM(CO)

GN(04/09/2018)

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