



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2018

CORAM :

**THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

W.P (MD) No.20814 of 2018

Vijay Anand

... Petitioner

vs.

The Registrar
The State Human Rights Commission,
Thiruvarankam
143 P.S.Kumarasamy Raja salai
Greenways Road, Chennai.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus to direct the respondent to conduct enquiry on the basis of complaint dated 27.07.2018, under section 12(a) of the Protection of Human Rights Act, 1993, in accordance with law.

For Petitioner: Mr.R.Alagumani
For Respondent: Mr.V.R.Shanmuganathan
Special Government Pleader

O R D E R

(Order of the Court was made by T.RAJA, J.)

This writ petition has been filed for a Mandamus to direct the respondent to conduct enquiry on the basis of complaint of the petitioner dated 27.07.2018, under section 12(a) of the Protection of Human Rights Act, 1993.

2. The petitioner has borrowed a sum of Rs.2 Crores in the year 2015 from the Axis Bank and for the default committed to the Bank, under the provisions of the SARFAESI Act by issuing notice under Section 13(2) calling upon the petitioner to explain as to why further action should not be taken under Section 13(4) of the SARFAESI Act followed by Sections 14 and 17 of the said Act. Finally, the Bank also, after issuing possession notice under Section 13(4) of the SARFAESI Act, proceeded further.

3. The grievance of the petitioner shows that the respondent bank with their staff have not permitted the petitioner to have



access to his house to take the belongings, which are kept inside the house, before even taking symbolic possession.

4. Firstly, it is not mentioned that on what date, the Bank officials visited the petitioner's house.

5. Secondly, the representation dated 27.07.2018 does not throw any light on the default committed by the petitioner.

6. Learned counsel for the petitioner is not able to explain satisfactorily what happened to the petitioner, after issuance of notice under the SARFAESI Act. It is not known whether the petitioner has approached the Debt Recovery Tribunal and nowhere he has mentioned why he has not taken steps to approach the Debts Recovery Tribunal, Madurai. Therefore, we are not able to find any merit to maintain the petition to accept the case of the petitioner for conducting enquiry for violation of Human Rights. If every borrower, after borrowing huge sum, comes to this Court alleging action to be taken against the Bank for violation of Human Rights, absolutely, it is not known how such petition can be maintained, more particularly, when the borrower has not even paid back the money, when the provisions of the SARFAESI Act provides that after classifying the account of the defaulter as NPA, the Bank can proceed under the provisions of the SARFAESI Act to take physical possession. Therefore, the petitioner cannot maintain any writ petition on the ground that there has been violation of human rights. It is also to be mentioned that the petitioner has not even impleaded the Bank as one of the respondents.

7. For these reasons, the writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS-I)

To

The Registrar

The Sate Human Rights Commission, Thiruvaramkam

143 P.S.Kumarasamy Raja salai, Greenways Road, Chennai.

RR

BU/SKN/SAR-1 :13.11.2018 : 2P/2C