

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **24.06.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **S.MANIKUMAR**
and
THE HONOURABLE MR.JUSTICE **SUBRAMONIUM PRASAD**

Cont.P.No.665 of 2019

Jammu and Kashmir Bank Limited,
Through its Business Unit Parrys, Chennai
At: Voltas International Building, No.52,
Armenian Street, Parrys, Chennai - 600 001.
Rep. by its Authorized Officer,
Mr.Sushil Kumar Gupta .. Petitioner

Versus

Thiru.P.Ponniah, IAS,
District Collector cum District Magistrate,
Kancheepuram Collectorate,
Kancheepuram - 631 501. ... Respondents

Prayer: This Contempt Petition filed under Section 11 of the Contempt of Court Act, 70/71 to punish the respondent for having committed contempt of Court for disobeying the order dated 28.06.2018 made in WP.15786 of 2018.

For Petitioner : Mr.Arjun Suresh
For Respondents : Mr.E.Manoharan
Additional Government Pleader

ORDER

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

Alleging willful disobedience of the order made in
WP No.15786 of 2018 dated 28.06.2018, instant Contempt
Petition No.665 of 2019 has been filed against the District
Collector cum District Magistrate, Kancheepuram.

2. On 19.06.2019, when the matter came up for hearing, we directed Mr.E.Manoharan, learned Additional Government Pleader to take notice and to ascertain the stage.

3. Reverting and on the basis of the proceedings in Rc.M3/1326/2019 dated 21.06.2019 of the District Collector cum District Magistrate, Kancheepuram District, Mr.E.Manoharan, learned Additional Government Pleader submitted that the District Collector cum District Magistrate, Kancheepuram District, in the application dated 09.08.2017 filed under Section 14 of the SARFAESI Act, 2002, has passed an order on 21.06.2018 and the same is reproduced.

**In the Court of the District Magistrate and District Collector,
Kanchipuram**

Present: Thiru P.Ponniah, I.A.S.,

RC.M3/1326/2019 Dated: 21.06.2019

Sub: Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 – Applications filed by M/s. Jammu & Kashmir Bank, Parrys Branch, Chennai-1 – taking Possession of secured assets located at Plot No.K0 in the Sipcot Industrial Park at Sriperumbudur within the village of Mambakkam Taluk of Sriperumbudur – admeasurement 4.32 acres or thereabouts comprised in S.Nos.273 (part), 274(part), 275(part) of Mambakkam village – Petition filed under Section 14 of the Act for taking possession of the secured assets – orders issued.

Read: 1. The Authorized Officer, M/s. Jammu & Kashmir Bank, Parrys Branch, petition dt.08.08.2017.

<https://hcservices.ecourts.gov.in/hcservices/>

2. Hon'ble High Court of Judicature at Madras, judgment in W.P.No.15786 of 2018, dated 28.06.2018.

3.

3. This office Rc.No.1326/2019 M3, dated 20.02.2019 addressed to Tahsildar, Sriperumbudur.

4. Tahsildar, Sriperumbudur report Re. 2140/2019/A 1, Dated: 21.06.2019.

5. Other connected records.

ORDER:

The Authorized Officer, M/s. Jammu & Kashmir Bank, Parrys Branch, Chennai-1 has filed applications under section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 for taking possession of the following Secured Assets of the borrower who availed financial assistance from M/s. Jammu & Kashmir Bank, Parrys Branch, Chennai-1 by mortgaging the said property.

S.No	Name of the Borrower	Details of the property mortgaged	Survey No & Extent Sq ft.
1.	ETA Engineering Pvt. Ltd., Rep. by its Directors : 1. Mr.Abdul Carder Juniad Yaseen Mohammed 2. Khalid Buhari, 3. Abdul Qadir Registered office at New No.70, (Old No.63), Sterling Road, Nungambakkam, Chennai-34.	Plot No. K6, Sipcot Industrial Park, Mambakkam Village, Sriperumbudur Taluk, Kanchipuram District.	comprised in Survey Nos.273 (Part). 274(part), 275(part) admeasure ment of 4.32 acres.

2) After filing a petition under section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 before the Hon'ble District Collector cum Magistrate at Kancheepuram in the reference 1st cited, the Petitioner Bank filed a Writ Petition No. 15786 of 2018 and Hon'ble Division Bench passed the orders as follows:

"The District Collector cum Magistrate, Kancheepuram, is directed to dispose of the application dated 09.08.2017, 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 Magistrate, Kancheepuram, should act in accordance with section 14 of the SARFAESI Act, 2002.".

3) In the reference 3rd cited, the Tahsildar, Sriperumbudur has been directed to verify the property and land records of the borrower and submit a report to the District

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Collector. Accordingly, the Tahsildar, Sriperumbudur has submitted a report in the reference 4th cited.

4) On perusing the records it is ascertained that as per village accounts in Survey Nos.273 part, 274 part, 275 part to an extent of 4.32 acres registered in the name of SIPCOT.

5) Further the land in question has been leased out by M/s.SIPCOT to the defaulter by Thiru M. Palani Son of Thiru E.Manickam, Senior Project Manager, SIPCOT Industrial Park, Sriperumbudur on 13th day of December, 2006 vide registered document No.24368/2006 to M/s.ETA Engineering Private Ltd. having their registered corporate office at Seethakathi Chambers, Chennai-6 represented by their Director Thiru J.Y.M.Abdul Cader, Son of Thiru Junaaid Yaseen, Chennai-34 vide description of the Industrial Park in Schedule 'A' and description of the property concerned in this lease in Schedule 'B'.

6) The borrower entered into a loan agreement and letter of credit agreement with M/s.Jammu and Kashmir Bank Ltd., on 30th January, 2013. The Memorandum of deposit of Title Deeds were registered in Sub Registrar Office, Sunguvarchatram vide document No.1471/2014, dated 11.04.2014 in consideration of Rs.321,00,000/- paid by the lender to the Borrower, the Borrower have this date deposited the original lease deed mentioned in schedule I at Chennai pertaining to the property mentioned in Schedule II with an intent to create equitable mortgage by way of deposit of Lease deed for repayment of the above said sum.

7) The Chairman and Managing Director, SIPCOT, Chennai-8 in reference No.DI/SPR/EEPL/2006, dated 8.8.2006 gave allotment order for Plot No.K6 - total extent of 4.84 acres at SIPCOT Industrial park, at Sriperumbudur on lease for a period of ninety nine years for setting up an Industrial Unit for the manufacture of Air conditioners with the conditions stipulated. One among the condition is that the allottee has to obtain No objection letter from SIPCOT to mortgage the lease hold rights of the allotted plot for availing financial assistance after getting sanction letter from Bank/Financial Institution and the same will be considered subject to conditions as applicable.

8) The Principal Secretary/Chairman and Managing Director, SIPCOT, Chennai in reference No.D-11/SPR/ETA/52/2010, dated 31.12.2010 issued No Objection in mortgaging M/s.ETA Engineering Private Ltd., lease hold right of the Plot No.K-6 with an extent of 4.32 acres in SIPCOT Industrial Park, Sriperumbudur in favour of Yes Bank, Nungambakkam High Road, Chennai-31. It is also mentioned that the NOC dated 29.2.2008 issued by SIPCOT earlier to mortgage the leasehold rights in favour of M/s.3i Infotech Trusteeship Services Ltd.

9) As the NOC in mortgaging lease hold right issued by the SIPCOT stands in favour of Yes Bank, Nungambakkam High Road, Chennai-31 and not in favour of M/s. Jammu & Kashmir Bank, Chennai-1.

10) In view of the aforesaid reasons, the lease-hold property is situated within the jurisdiction of SIPCOT, at Plot No.K6 in the SIPCOT Industrial Park at Sriperumbudur within the village limit of Mambakkam village, Sriperumbudur Taluk, the District Collector cum Magistrate, Kancheepuram is not competent to initiate action under section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The SIPCOT is the competent authority to take necessary action in this case.

11) The Authorized Officer, M/s. Jammu & Kashmir Bank, Chennai-1 is directed to seek remedy through appropriate forum in SIPCOT in respect of the said mortgaged property.

Note: This order is passed with reference to Hon'ble High Court directions in W.P.No.15786 of 2018, dated 28.06.2018.

Sd/-

District Magistrate and District Collector,
Kancheepuram District,
Kancheepuram.

To

1. The Authorized Officer, M/s. Jammu and Kashmir Bank Limited,
Voltas International Building,
No.52, Armenian Street, Parry,
Chennai-600 001.

Copy submitted to: The Managing Director, SIPCOT,
Chennai-600 008.

Copy to : The Tahsildar, Sriperumbudur.

4. In view of the above, we are of the view that
<https://hcservices.ecourts.gov.in/hcservices/>
there is no willful or deliberate intention to flout the

orders of this Court. Hence, the instant Contempt Petition is dismissed. No costs.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

ars

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

Mv/10/07/2019

To

The District Collector cum District Magistrate,
Kancheepuram Collectorate,
Kancheepuram - 631 501.

सत्यमेव जयते

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