

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2019

CORAM :

The Hon'ble Mrs.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE
AND

The Hon'ble Mr.JUSTICE M.DURASWAMY

W.P. No. 22002 of 2019

M/s.DCB Bank Ltd.

Rep. by its Authorised Officer,
Mr.Jockins R.C.

.. Petitioner

-vs-

1.District Collector/District Magistrate,
Salem District, Salem.

2.P.J.Suresh

3.P.S.Poornima

4.M/s.P.M.S.Silvers
Salem.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus to call for the records of the 1st respondent in Roc.No.30985/2018/C5 dated 21.01.2019 and to quash the same and to direct the 1st respondent to take physical possession of the property at Door No.80, T.S.No.108, C-Division, 6 Ward, Shevapet, Bungalow Street Western Side, Salem Town, Salem West belonging to the 2nd respondent based on the application dated 05.12.2018 filed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002.

For Petitioner : Mr.R.Chandra Mohan

For Respondents: Mr.S.Kamalesh Kannan
Govt. Advocate for R-1

O R D E R

(Order of the Court was made by M.DURIASWAMY, J.)

The petitioner bank has filed the above writ petition to issue writ of certiorarified mandamus calling for the records of the 1st respondent dated 21.01.2019 and to quash the same and to

direct the 1st respondent to take physical possession of the property at Door No.80, T.S.No.108, C-Division, 6 Ward, Shevapet, Bungalow Street Western Side, Salem Town, Salem West belonging to the 2nd respondent based on the application dated 05.12.2018 filed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act).

2.The petitioner bank has filed an application under Section 14 of the SARFAESI Act before the first respondent for taking physical possession of the property in dispute. During the pendency of the said application, the first respondent called upon the petitioner bank to produce the possession notice issued under Section 13 (4) of the SARFAESI act, the acknowledgement of possession notice and the paper publication with regard to the possession notice. The said communication was sent to the petitioner bank on 21.01.2019. Challenging this communication, the petitioner bank has filed the writ petition in the month of April, 2019.

3.The learned counsel appearing for the petitioner bank submitted that the petitioner bank has not issued the possession notice to the parties and therefore, they are not in a position to produce the same before the first respondent.

4.However, the petitioner bank has not filed any reply to the communication dated 21.01.2019 issued by the first respondent calling upon them to produce the documents. Admittedly, the first respondent has also not passed any final order so far. Therefore, we are of the view that the petitioner bank should file a reply to the communication dated 21.01.2019 of the first respondent with regard to the documents sought to be produced. Without filing reply, the petitioner has filed the present writ petition challenging the said communication.

5.In these circumstances, we are not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. However, the petitioner bank is at liberty to file reply to the communication dated 21.01.2019 of the first respondent within ten days from the date of receipt of a copy of this order. No costs.
sra

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

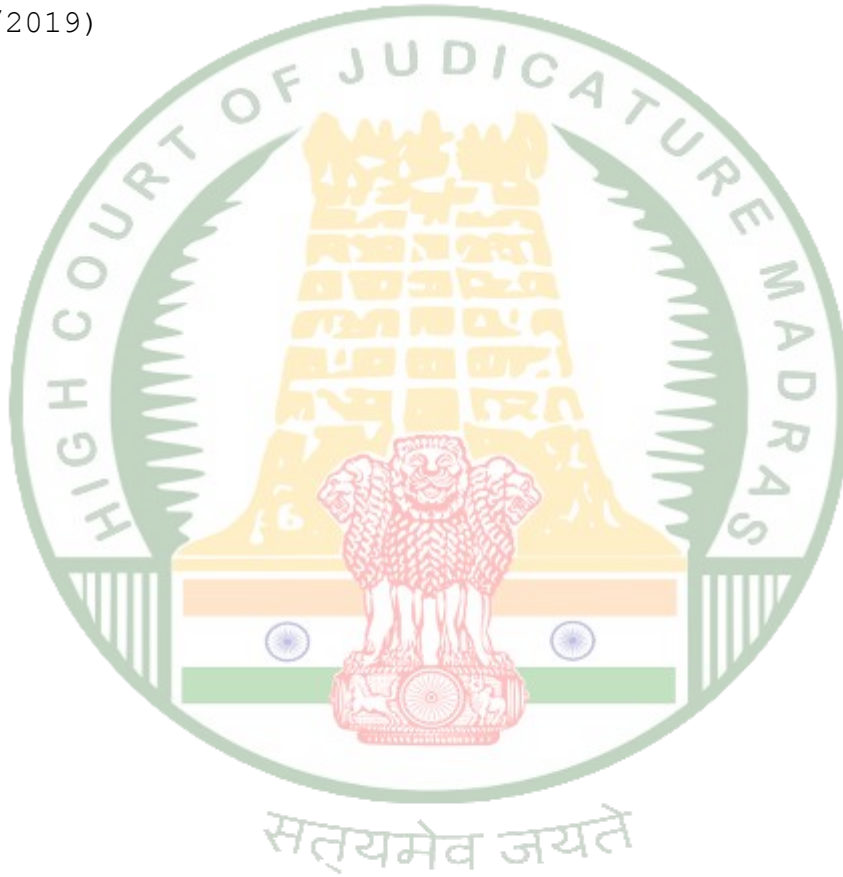
The District Collector/District Magistrate,
Salem District, Salem.

+1cc to the Govt.Pleader, Vide SR.No.64252

+1cc to Mr.R.Chandramohan, Advocate, SR.No.66831

W.P.No.22002 of 2019

Kak (05/08/2019)



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