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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.33486 of 2019
and W.M.P.No.33958 of 2019

G.Sekar

...Petitioner

-Vs-

1.The District Magistrate and District Collector
Namakkal District

2.The Authorised Officer
M/s.Religare Finvest Ltd.,
Coimbatore Branch, Corporate Castle
No.794-A, 3rd Floor
Verivada Road, Coimbatore

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, to issue writ of Certiorari to call for the records of the 1st respondent in Roc.15597/2018-M4 dated 15.07.2019 and quash the same as illegal and arbitrary.

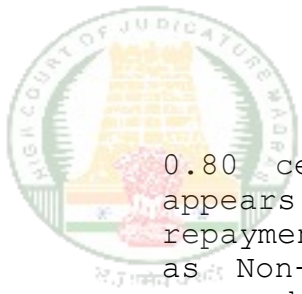
For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents: Mr.Akhil Akbar Ali,
Government Advocate for R1

ORDER

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

Chairman and Managing Trustee of Sri Chinthamani Vinayagar Educational Trust, Namakkal, availed loan facility of Rs.15,25,00,000/- [Rupees Fifteen crores twenty five lakhs only] from the 2nd respondent to manage and run the Institution [Vetri Vinayaga Institution of Engineering and Technology, Kathuputhur, Tholurpatti Village, Trichy District]. The Petitioner trust for the due repayment of loan also created a security over immovable properties in Natham S.F.No.273/13 admeasuring 0.01.62 hectares of Vettampadi village, S.F.No.102/1 5.30 acres and S.F.No.102/2A



0.80 cent in Thummakurichi Village, Namakkal District. It appears that the petitioner trust had committed default in repayment of dues. Therefore, their assets have been declared as Non-performing assets. The 2nd respondent had initiated proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short 'SARFAESI Act') and accordingly, issued notice under Section 13(2) and 13(4) of the said Act.

2. Thereafter, the 2nd respondent, had approached the 1st respondent under section 14(1) of the SARFAESI Act for taking possession of the secured assets. The 1st respondent, vide impugned proceedings dated 15.07.2019, had passed orders, for taking possession of the immovable properties, which are under mortgage, except agricultural lands, with the aid of police, if required and handover the same to the 2nd respondent. The Writ Petitioner, challenging the illegality of the said proceedings, has filed the present writ petition.

3. The learned counsel appearing for the petitioner would submit that the petitioner trust is making all due efforts to settle the dues at the earliest and pray for outer time limit of six months to clear the dues, until such time, pray that further proceedings in terms of the impugned communication of the 1st respondent dated 15.07.2019, be kept in abeyance.

4. This court has carefully considered the rival submissions and also perused the materials.

5. The submission cast before us is that the 1st respondent before passing orders under Section 14(1) of the SARFAESI Act has to see that whether the provisions of 13(2) and 13(4) of the SARFAESI Act has been complied with or not. No materials have been placed before this court as to the response given by the petitioner to the notice issued under section 13(2) and 13(4) of the SARFAESI Act and it prima facie appears that the petitioner has no tenable defence to put forth in respect of settling the loan amount. A perusal and consideration of the impugned order would also disclose that the 1st respondent has taken into consideration, of the amount due and payable as well as the security created of the immovable assets and had rightly reached the conclusion to authorise the Sub Collector, Namakkal, to take possession of all properties mentioned in the schedule and handover the same to the 2nd respondent, with police aid, if required. In the considered opinion of the court, the 1st respondent has discharged his duties strictly in accordance with the Act and in the light of the limited scope of the judicial review available to this court, this court is unable to



interfere with the said conclusion. Accordingly, the Writ Petition is dismissed at the admission stage itself. No costs. Consequently, connected WMP is closed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The District Magistrate and District Collector
Namakkal District

2.The Authorised Officer,
M/s.Religare Finvest Ltd.,
Coimbatore Branch, Corporate Castle
No.794-A, 3rd Floor
Verivada Road, Coimbatore

+1cc to Mr.P.Ganapathi Subramanian, Advocate sr.100529

+1cc to Government Pleader SR.NO. 101191

W.P.No.33486 of 2019

gmr(co)
nr 07/01/2020