

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2019

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.29761 of 2018

Indian Overseas Bank
Brindavan Nagar Branch
rep by its Authorized Officer and Branch Manager
Jayalakshmi
Branch at No.40 & 41,
3rd Main Road,
Brindavan Nagar, Adambakkam,
Chennai - 600 088.

.. Petitioner

Vs.

State rep by its
1.The District Collector,
Kancheepuram District.

2.The Inspector of Police,
Adambakkam Police Station,
Chennai - 600 088.

3.M/s.Annamaya Foundation,
rep by its Proprietor
U.Saranga Rajan
Plot Door No.26/4, EB Colony II Street,
Vel Nagar, Adambakkam,
Chennai - 600 088.

4.M/s.Priyanka Foundation
rep by its Proprietor
U.Saranga Rajan
Plot No.4, Door No.26/4, EB Colony II Street,
Vel Nagar, Adambakkam,
Chennai - 600 088.

5.R.Upendran

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus directing the Chief

Metropolitan Magistrate, Egmore to accept the petitioner Bank's application for taking physical possession under Section 14 of the SARFAESI Act, 2002 without raising jurisdiction issue and also direct the Chief Metropolitan Magistrate Court, Egmore to dispose the application within the time stipulated.

For Petitioner : Mr.P.R.Venkatesh Maesthung

For Respondents : Mr.S.Kamalesh Kannan,
Government Advocate (R1 & R2)
R3 to R5 - no appearance

O R D E R

(Order of the Court made by the Hon'ble Chief Justice
and M.Duraiswamy, J.)

The petitioner - Bank has filed the above Writ Petition to issue a Writ of mandamus directing the Chief Metropolitan Magistrate, Egmore, Chennai to accept the petitioner - Bank's application for taking physical possession under Section 14 of the SARFAESI Act without raising jurisdiction issue and also direct the Chief Metropolitan Magistrate Court, Egmore, Chennai to dispose of the application within a time frame.

2.The learned counsel appearing for the petitioner submitted that initially the Bank filed an application under Section 14 of the SARFAESI Act before the Chief Metropolitan Magistrate, Chennai and however, the Chief Metropolitan Magistrate rejected the petition stating that the petitioner - Bank has to file the application under Section 14 only before the District Collector, Kancheepuram. Pursuant to the order passed by the Chief Metropolitan Magistrate, the petitioner filed an application under Section 14 before the District Collector, Kancheepuram, who also returned the papers stating that only the Chief Metropolitan Magistrate shall have jurisdiction to entertain the petition. In these circumstances, the petitioner has filed the Writ Petition.

3.So far as the mortgaged property is concerned, it is situated at Velacherry Village, Mambalam - Guindy Taluk, Chennai District.

4.In these circumstances, we have directed the Registrar (Judicial) of this Court to clarify as to the jurisdiction of the Chief Metropolitan Magistrate and the District Collector with regard to the entertaining the application filed under Section 14 of the SARFAESI Act.

5. Accordingly, we were informed by the Registrar (Judicial) of this Court that in respect of the property at Velacherry Village, Mambalam - Guindy Taluk, Chennai District, the Chief Metropolitan Magistrate, Egmore, Chennai is having jurisdiction to entertain the application filed under Section 14 of the SARFAESI Act.

6. In view of the same, we are of the considered view that the Chief Metropolitan Magistrate, Egmore, Chennai shall have jurisdiction to entertain the application under Section 14 of the SARFAESI Act in respect of the mortgaged property. Hence, we direct the petitioner - Bank to file an application under Section 14 of the SARFAESI Act, afresh and on filing of the same, the Chief Metropolitan Magistrate, Egmore, Chennai is directed to take the same on file and dispose of the application, on merits and in accordance with law, as expeditiously as possible.

7. With these observations, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Kancheepuram District.

2. The Inspector of Police,
Adambakkam Police Station,
Chennai - 600 088.

3. The Chief Metropolitan Magistrate,
Egmore, Chennai.

GJII (CO)
CSL/18.02.2019

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