

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.2673 of 2018

The Authorised Officer,
Mr.R.Mariappan,
Tamilnadu Mercantile Bank Ltd.,
No.16, Pulla Avenue,
Shenoy Nagar, Chennai - 600 030. .. Petitioner

Versus

Tmt.Mageswari Ravikumar,
District Collector / District Magistrate,
Office of the Collectorate,
Thiruvallur District,
Thiruvallur. .. 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 09.07.2018 made in WP.17017 of 2018.

For Petitioner : Mr.S.Sethuraman
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.17017 of 2018 dated 09.07.2019, the Authorised Officer, Tamil Nadu Mercantile Bank, Chennai, has filed the instant contempt petition against the District Collector / District Magistrate, Thiruvallur District. Contempt Petition has been filed on 22.11.2018.

2. When the matter came up for hearing on 19.06.2019, 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.No.24882/2017/M2** dated 15.05.2019 of the District Collector / District Magistrate, Thiruvallur District, Mr.E.Manoharan, learned Additional Government Pleader submitted that pursuant to the directions of this Court in WP No.17017 of 2018 dated 19.07.2018, application of the bank dated 08.11.2017 filed under Section 14 of the SARFAESI Act, 2002 has been considered and after enquiry, orders have been passed on 15.05.2019. In addition to the above, Mr.E.Manoharan, learned Additional Government Pleader further submitted that even before the contempt petition was heard and notice was issued on 19.06.2019, order dated 15.05.2019 has already been communicated to the petitioner.

4. However, Mr.S.Sethuraman, learned counsel for the petitioner submitted that instructions have not been furnished by the bank as to whether order dated 15.05.2019 has been received or not and therefore, contempt petition No.2673 of 2018, is pursued.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. Order dated 15.05.2019, reads as under.

PROCEEDINGS OF THE DISTRICT MAGISTRATE / DISTRICT COLLECTOR,

TIRUVALLUR DISTRICT, TIRUVALLUR

PRESENT: TMT. MAGESWARI RAVIKUMAR, I.A.S.,

Rc.No.24882/2017/M2

Dated: 15.05.2019

Sub: W.P.No.17017/2018 and W.P.No.21318/2015 - SARFAESI Act 2002- Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 - Petition filed by the Authorised Officer, M/s.Tamilnad Mercantile Bank Ltd., Valasaravakkam, Branch, Chennai-87 - Loan granted to M/s.Shree Jayalakshmi Timber Mart, No.6/7, CTH Road, Thirumullaivoyal, Chennai and 4 others - filed affidavit u/s. 14 of SARFAESI Act - Orders issued.

Read: 1. Petition filed by the Authorised Officer, M/s.Tamilnad Mercantile Bank Ltd., Valasaravakkam Branch, D.No.91, 1st Floor, Shree Puspha Complex, Kamakodi Nagar, Valasaravakkam, Chennai - 600 087, dated : 09.11.2017.

2. This Office Rc.No.24882/2017/M2 dated 21.11.2017 addressed to the Tahsildar, Avadi.

3. Orders dated 09.07.2018 in WP No.17017/2018 from High Court of Madras.

4. Orders dated 18.07.2018 in WP No.21318/2015 from High Court of Madras.

5. Tahsildar, Avadi Letter No.4666/2018/A4 dated: 28.11.2018 and Connected records.

ORDERS:

The Authorised Officer, M/s. Tamilnad Mercantile Bank Ltd., Valasaravakkam Branch, D.No.91, 1st Floor, Shree Pushpa Complex, Kamakodi Nagar, Valasaravakkam, Chennai - 600 087 has filed an application under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. In their affidavit, the Authorised Officer has stated that, the respondents

- (1) M/s.Shree Jayalakshmi Timber Mart, No.6/7, C.T.H.Road, Thirumullaivoyal, Chennai
- (2) Mr.P.Ramadass, S/o. A.Palanichamy Nadar (Late)
- (3) Mrs.R.Uma, W/o.Mr.P.Ramadass,
- (4) Ms.R.Madhumitha, D/o.P.Ramadass,
- (5) Mr.R.Saravanan, S/o.Mr.P.Ramadass

all are residing at No. 1, First Right Street, Manikandapuram, Thirumullaivoyal, Chennai had approached and requested for House Loan and after processing the term loan to the limit of Rs.3,40,00,000/- (Rupees three crores forty lakhs only) has been approved under guaranteed, the due repayment of the aforesaid loan

liability in favour of the respondent. The respondents had offered below mentioned property as a collateral security for the above loan:-

<i>Name of the Taluk and</i>	<i>Survey Number</i>	<i>Extent</i>	<i>Details of Property</i>
Avadi Taluk, Thirumullaivoyal Village	572 Part, T.S. No.4/2	21800 sq.ft (with damaged building)	Old No.51, New No. 16, Ward No.D, Block No.84, Manikandapuram Boundaries: North: Chennai-Tiruvallur High Road South: Part of land in S.No.572 East: Land belonging to C.Vijaykumar and others West: 30 feet road

2) The respondents have executed a loan agreement dated **19.03.2011** with the petitioner for the purpose of availing cash credit to the limit of Rs.3,40,00,000/- (Rupees three crores forty lakhs only). The petitioner bank has disbursed the loan amount of Rs.3,40,00,000/- (Rupees three crores forty lakhs only) on **19.03.2011** to the respondents in Loan Account **No:205700460100002**. But, the respondents have defaulted in repayment of, monthly installments as per the agreement. Hence the petitioner has classified the debts of the respondents as Non-Performing Asset on **31.03.2015**.

3) In order to take action, the Authorized Officer has issued notice dated 10.08.2018 to the respondents under section 13(2) of SARFAESI Act 2002, calling upon the respondents to repay the dues together with interest Rs.3,40,49,007.91/- (Rupees three Crore forty lakhs forty nine thousand and seven and paise ninety one only) as on 28.04.2015 with the instruction to discharge, in full liabilities within 60 days from the date of receipt of the notice. But, the respondents have not turned up. Therefore, the petitioner has executed section 13(4) of the Act, by issuing the possession – 24.03.2016 and has taken symbolic possession of schedule proposes and effected paper publication in “New Indian Express” (English Edition) and “Dinamani” (Tamil Edition) dated 25.03.2016. But, the petitioner have non preferred petition under section 14 of the SRFAESI Act 2002, before the District Magistrate/District Collector, Tiruvallur dated 09.11.2017 with the prayer to hand over the assured asset.

The Notice for personal hearing was sent through RPAD to the petitioner and respondents have been dispatched from this office. Both parties

appeared for enquiry before the District Collector, Tiruvallur on 16.08.2018 and their statements were recorded.

The Defaulter has filed written statement on 16.08.2018 wherein he has stated that they have filed a case in No. 123/2018 before DRT-III, Chennai against the sale proceedings held on 16.10.2017 conducted by the bank. The said case was dismissed.

The Petitioner bank also filed written statement and prayed for a week time for submitting the original documents. On perusal of documents filed by the bank it is revealed that the E-auction sale was held on 16.10.2017 and the successful bidder is M/s. Hari 8b Keerthi Engineers (P) Ltd., GKS Avenue, 20, Pycrofts Garden Road, Chennai-600 006.

On perusal of available records, it reveals that the Banker has filed this petition of section 14 of the Act 2002 before the District Collector/District Magistrate, Tiruvallur on 09.11.2017 but E-auction sale was conducted on 16.10.2017 and the property was sold to the successful auction purchaser before filing of this petition. Further the Authorised Officer has also suppressed the above facts while filing the affidavit u/s 14 of the Act 2002, in their original application on 09.11.2017 as well as in written statement furnished by Bank.

Also, the prayer of Authorised Officer, M/s. Tamilnadu Mercantile Bank Ltd., Valasaravakkam Branch, D.No.91, 1st Floor, Shree Pushpa Complex, Kamakodi Nagar, Valasaravakkam, Chennai - 600 087 cannot be entertained, as the title of the subject land itself is in question and it is under enquiry by the office of the Commissioner of Land Administration, Chepauk, Chennai-5 pursuant to the orders dated 18.07.2018 in WP No.21318 of 2015, High Court of Madras. At this juncture, the question of having over possession of the property cannot be entertained.

Sd/-
District Magistrate /
District Collector,
Tiruvallur.

7. Inasmuch as an order in the application filed under Section 14 of the SARFAESI Act, 2002, has been passed on 15.05.2019, by District Collector / District Magistrate, Thiruvallur District, we are of the view that there is no prima facie contempt. 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 / District Magistrate,
Office of the Collectorate,
Thiruvallur District,
Thiruvallur.