

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2019

CORAM :

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

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. No.33854 of 2018 and
W.M.P.No.39316 of 2018

P.Baskaran

.. Petitioner

Vs.

1. The District Collector,
Tiruvallur, Tiruvallur - 602 001.

2. The Authorized Officer,
Bank of India,
33/3, First Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 020.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus to direct the 1st respondent to provide an opportunity for the petitioner to appear, place submissions with legal professional assistance and satisfy regarding the issues involved in the adjudication in the measures invoked by the 2nd respondent Bank in the petition under Section 14 of the SARFAESI Act on the file of the 1st respondent in accordance with law on any particular date as may be fixed and notified to the petitioner by the 1st respondent.

For Petitioner : Mr.H.Manojin

For Respondents: Mr.S.Kamalesh Kannan,
Government Advocate (R1)

Mr.R.Umasudhan (R2)

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of mandamus to direct the 1st respondent to provide an opportunity for the petitioner to appear, place submissions with legal professional assistance and satisfy regarding the issues

involved in the adjudication in the measures invoked by the 2nd respondent Bank in the petition under Section 14 of the SARFAESI Act on the file of the 1st respondent in accordance with law.

2.The only contention raised by the petitioner is that he was not given an opportunity by the 1st respondent to contest the application filed under Section 14 of the SARFAESI Act by the 2nd respondent - Bank.

3.The 1st respondent filed a counter wherein she has stated that notice was given to the petitioner to appear before her on 18.08.2017 and 27.11.2018.

4.Since the learned counsel appearing for the petitioner disputed this averment, we have directed the learned Government Advocate to produce the files with regard to the proceedings pending before the 1st respondent. Accordingly, Mr.S.Kamalesh Kannan, learned Government Advocate produced the files and on perusal of the files, it is clear that the petitioner appeared before the 1st respondent on 18.08.2017 and 27.11.2018 and sought for adjournment on both the days. Therefore, the petitioner cannot contend that he was not given an opportunity to appear before the 1st respondent and that the 1st respondent is proceeding with the matter without giving an opportunity of hearing. On 18.08.2017, the petitioner appeared before the 1st respondent and sought for time and when the matter was listed after a lapse of 13 months (i.e.) on 27.11.2018 also, he sought for adjournment. Therefore, we are of the view that the 1st respondent has given due opportunity of hearing to the petitioner. In these circumstances, we are not inclined to give any direction to the 1st respondent. The 1st respondent shall pass orders on merits and in accordance with law.

5.With these observations, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

सत्यमेव जयते

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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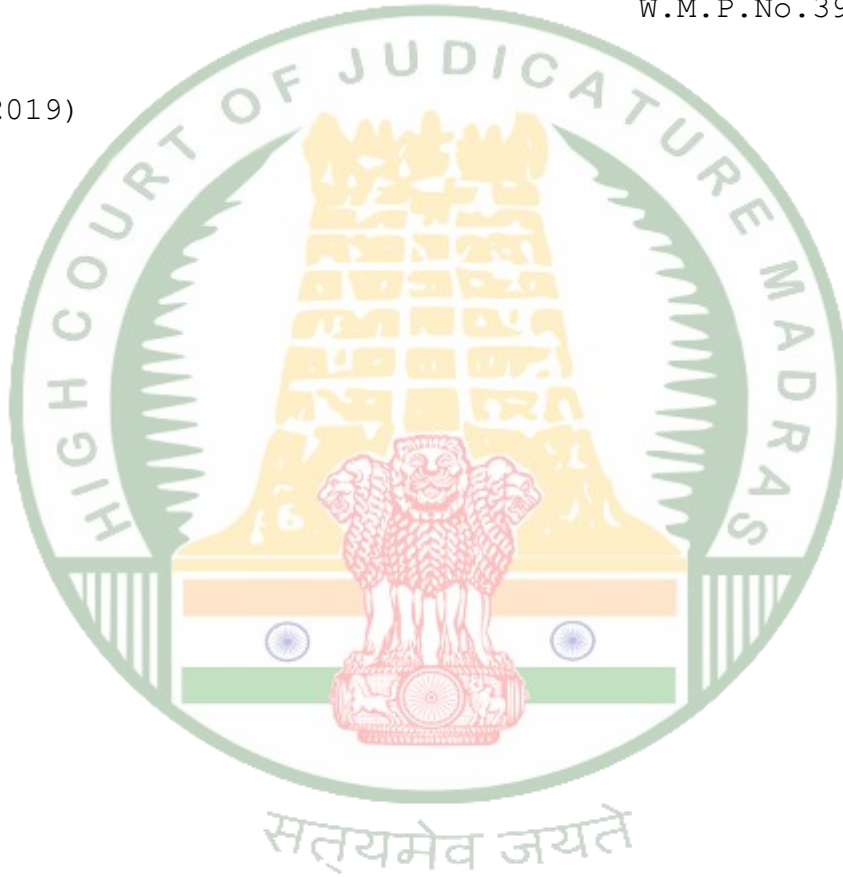
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+1 CC to The Govt. Pleader sr 23121.

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EV(CO)
SP(28/03/2019)



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