



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2019

CORAM:

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THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MRS. JUSTICE R.THARANI

Writ Petition(MD)No.7895 of 2019

M/S.Fullerton India Credit Company Limited,
Having its Office at
Old No.307, New No.165, Megha Towers
3rd Floor, Ponmalle High Road,
Maduravayal.
Chennai-95.
Rep. by its Power of Attorney
Selvakumar,J.

.. Petitioner

Vs.

The District Collector,
Trichy District,
Trichy.

..Respondent

Prayer:Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus and direct the respondent to issue the order for taking possession of the secured asset situated at plot No. D-37 F.W.E, an extent of 2800 Sq.ft, comprised in T.S.No. 271 part, 272 part , 273 part and 274 part, New ward D, New Block 9, New T.S.No. 82 (part), 83 (part), 84 (part), 85 (part) and old Municipal Ward 3 , Block 9, Thilainagar 10th Cross Road , west extension, Trichy Taluk, Trichy Town, Registration District of Trichirapalli, Sub Registration District of Woraiyur and hand over them to the petitioner within a time limit to be fixed by this Court.

For Petitioner : Mr.S.Namasivayam

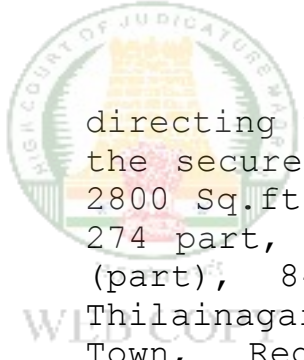
For Respondents : Mr.Ayiram K.Selvakumar
Addl. Govt. Pleader

ORDER

[Order of the Court was made by **K.KALYANASUNDARAM, J**]

<https://hcservices.ecourts.gov.in/hcservices/>

The petitioner prays for issuance of writ of mandamus,



directing the respondents to issue an order to take possession of the secured asset situated at plot No.D-37 F.W.E, an extent of 2800 Sq.ft, comprised in T.S.No.271 part, 272 part, 273 part and 274 part, New ward D, New Block 9, New T.S.No. 82 (part), 83 (part), 84 (part), 85 (part) and old Municipal Ward 3 , Block 9, Thilainagar 10th Cross Road, west extension, Trichy Taluk, Trichy Town, Registration District of Trichirapalli, Sub Registration District of Woraiyur and hand over them to the petitioner within a time limit to be fixed by this Court.

2.Mr.S.Namasivayam, learned counsel for the petitioner would submit that the petitioner is a financial institution and in the course of business, they have sanctioned loan to one Amutha & Company. Thereafter, the partners of the firm and the other guarantors have created an equitable mortgage. However, for the default committed by the borrower in repayment of amount, proceedings under Section 13(2) of the Securitization and Reconstruction of Financial and Enforcement of Security Interest Act (hereinafter referred as Act) were initiated and on 19.06.2018, the petitioner approached the respondent by filing an application under Section 14 of the Act to take possession of the property.

3.According to the learned counsel, Section 14 of the Act mandates the respondent to pass suitable orders to take possession of the secured assets ordinarily within a period of 30 days from the date of the application and in exceptional cases, within a period of 60 days. Since no order is passed by the respondent, present writ petition has been filed. The learned counsel has relied upon a judgment of this Court passed in W.P.No.2470 of 2018, dated 05.02.2018.

4.Mr.Ayiram K.Selvakumar, learned Additional Government Pleader would also submit that the respondent is ready to pass orders in accordance with law.

5.This Court on earlier occasion in similar circumstance has held as follows:

"8.....

"The District Collector (District Magistrate), Thiruvallur, is directed to dispose of the application dated 29.02.2016, if not done earlier, within a period of three weeks, from the date of receipt of a copy of this order. While doing so, District Collector (District Magistrate), Thiruvallur, should act in accordance with Section 14 of the SARFAESI Act, 2002".



6.This writ petition is also disposed of in same terms and conditions. No costs.

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Sd/-

Assistant Registrar (AD-I)

Sub Assistant Registrar(CS)

To

The District Collector,
Trichy District,
Trichy.

+1 CC to MR.S.NAMASIVAYAM, Advocate (SR-61270[F] dated 16/04/2019)

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-61612[F] dated 22/04/2019)

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VS

AE/ (13.05.2019) 3P 4C