



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD)No.18955 of 2019

and

W.M.P. (MD)Nos.15267 and 15268 of 2019

S.Ammaponnu

... Petitioner

- Vs. -

1.The District Collector,
Madurai District, Madurai.

2.The Tahsildar,
Madurai South Taluk,
Madurai District.

3.The Authorised Officer,
Syndicate Bank,
Claret Plaza,
Melakkal Main Road,
Kochadai,
Madurai - 625 016.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records pertaining to the impugned notice in Na.Ka.No.415/2019/A5, dated 31.07.2019 issued by the second respondent and quash the same.

For Petitioner

: Mr.R.Pon Karthikeyan

For R-1 and R-2

: Mr.M.Karuppasamy
Government Advocate

For R-3

: Mr.R.Pandivel

O R D E R

[Order of the Court was made by
SENTHILKUMAR RAMAMOORTHY, J.]

This writ petition is filed to challenge the notice, dated 31.07.2019 of the second respondent, whereby the second respondent was authorised to take physical possession based on the order dated 03.06.2019 of the first respondent under Section 14 of the SARFAESI Act, 2002.

2.We heard the learned counsel for the petitioner.
<https://hcservices.efforts.gov.in/hcservices/>, learned Government Advocate takes notice for the



respondents 1 and 2 and Mr.R.Pandivel, learned counsel takes notice for the third respondent bank.

3.The writ petition is filed by the borrower's wife, who offered her house property as the security for the loan taken by her husband. In view of the non-repayment of the said loan, the respondent bank issued a notice under Section 13(2) of the SARFAESI Act and thereafter proceeded to issue an auction sale notice for the sale of the property. The petitioner challenged the said auction sale notice before the Debts Recovery Tribunal, Madurai, in S.A.No.62 of 2018 and obtained an interim stay on condition of making payments as specified in the said order. However, the petitioner failed to comply with the said conditional order. Thereafter, according to the petitioner, the impugned notice dated 31.07.2019 was received by the petitioner on 17.08.2019 and the said notice is challenged herein.

4.The learned counsel for the petitioner submitted that the order of the first respondent, dated 03.06.2019 under Section 14 of the SARFAESI Act was not served on him and that he became aware about the proceedings to take physical possession only upon receipt of the impugned notice, dated 31.07.2019, on 17.08.2019. Therefore, he submitted that it was not possible to approach the Debts Recovery Tribunal as against the order passed under Section 14 of the SARFAESI Act.

5.On the contrary, the learned counsel for the third respondent bank submitted that the Section 14 order was served on the petitioner and also that the petitioner did not comply with the conditional order of stay that was granted by the Debts Recovery Tribunal.

6.On perusal of the records and upon considering the oral submissions made by the parties, we find that the petitioner has not received the order dated 03.06.2019 as per the contentions in the affidavit. Accordingly, although the petitioner has an alternative remedy before the Debts Recovery Tribunal, he was not in a position to immediately avail such remedy. Accordingly, we are inclined to grant interim protection for a limited period. Therefore, without expressing any opinion on the merits of the case, we dispose of the writ petition with the following directions:-

(a).The respondent bank shall serve a copy of the Section 14 order on the petitioner within one week from the date of receipt of a copy of this order;

(b).On receipt thereof, the petitioner is granted leave to file appropriate proceedings before the Debts Recovery Tribunal concerned within two weeks thereafter; and



(c).*Status-quo* as on today in respect of the subject matter property shall be maintained for a period of three weeks from the date of receipt of a copy of this order.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Madurai District, Madurai.

2.The Tahsildar,
Madurai South Taluk, Madurai District.

3.The Authorised Officer,
Syndicate Bank, Claret Plaza,
Melakkal Main Road,
Kochadai, Madurai - 625 016.

+1 CC to M/s.R.PANDIVEL, Advocate (SR-84433[F] dated 30/08/2019)

+1 CC to M/s.R.PON KARTHIKEYAN, Advocate (SR-84435[F] dated 30/08/2019)

+1 CC to M/s.SPLGP (SR-84866[F] dated 03/09/2019)

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30.08.2019

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