



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.P.(MD).No.20500 of 2019

M/s.India Bulls Housing Finance Ltd.,
Rep.by its Authorised Officer
Mr.K.Jayakrishnan
Chennai

... Petitioner

Vs.

1.The District Collector,
Nagercoil.

2.K.Nirmalan

3.Chandrikabai Rekha

... Respondent

PRAYER: This petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to consider the application of the petitioner U/s.14 of SARFAESI Act, for taking physical possession of the secured asset mortgaged by the 2nd and 3rd Respondents with the petitioner comprised in Old Sy.No.879, New Sy.No.125/20, Nirmal Krishna, Moovottukonam Road, near Elangom Temple, Mathewpala Junction, Parugal Village, Parugal Town Panchayat, Vilvangadu Taluk, Kanyakumari District, without insisting for production of Memorandum of Deposit of Title Deeds.

For Petitioner : Mr.T.Saikrishnan

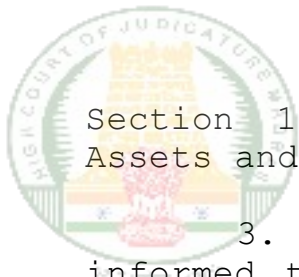
For Respondent-1 :Mr.A.Muthukaruppan,
Addl.Govt.Pleader

O R D E R

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

We have heard Mr.T.Saikrishnan, learned Senior Counsel appearing for the petitioner and Mr.A.Muthukaruppan, learned Additional Government Pleader for R1.

2. The petitioner is before this Court seeking for a direction upon the 1st respondent to consider his application under



Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. The 1st respondent, by proceedings, dated 22.02.2019, informed the petitioner that they have not produced the copy of Memorandum of Deposit of Title Deeds and therefore, their case cannot be proceeded with.

4. The learned counsel appearing for the petitioner has drawn the attention of this Court to the reply given by the petitioner to the 1st respondent, dated 29.06.2019, wherein they have stated about the manner in which they effect financial transaction with the borrower. Further, they pointed out that Memorandum of Deposit of Title Deeds is not a compulsory document to establish mortgage and the document produced by the petitioner along with the application clearly show that borrower has created a mortgage by delivering the original document of title to the petitioner. Therefore, the petitioner requested the 1st respondent to take on file the application filed under Section 14 of the SARFAESI Act and proceed further, without insisting on production of Memorandum of Deposit of Title Deeds.

5. The 1st respondent is required to scrutinise as to whether the lender has been secured by the borrower by providing immovable property security. The necessity for insisting upon the Memorandum of Deposit of Title Deeds may not arise in all cases, as a different type of documents may be adopted by different financial agencies. Therefore, the crux of the issue is whether there is a valid security offered by the borrower in favour petitioner Bank.

6. In the light of the above, we direct the 1st respondent to take note of the representation of this petitioner, dated 29.06.2019, in reply to the communication of the 1st respondent dated 22.02.2019 and the observation made by this Court, verify the original documents and proceed further in accordance with law. The above direction will be complied with within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)



To
WEB COPY

The District Collector,
Nagercoil.

+1 CC to M/s.T.PON RAMKUMAR, Advocate (SR-89272[F] dated
25/09/2019)

+1 CC to M/s.GP (SR-89822[F] dated 26/09/2019)

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25.09.2019

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