

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.02.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

WP.No.3175/2020

P.A.Sankar

... Petitioner

Versus

1.The Special Officer cum Executive Magistrate
Office of the District Collector cum District Magistrate
Puducherry.

2.The Authorised Officer
IDBI Bank Ltd.,
RBG Regional officer-TN
No.37M, P.M.Towers
Greams Road
Chennai 600 008.

... Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of mandamus directing the 1st respondent to furnish the copy of the application dated 08.01.2019 filed under Section 14 of the SARFAESI Act together with the documents relied by the 2nd respondent so as to enable the petitioner to participate in the enquiry proposed to be conducted by the 1st respondent on 11.02.2020 or any other date.

For Petitioner : Mr.R.Sreedhar

For Respondents: Mrs.V.Usha, AGP [Pondy]

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

(1)By consent, the writ petition is taken up for final disposal. Mrs.V.Usha, learned Additional Government Pleader [Puducherry] accepts notice on behalf of the respondents.

- (2) The petitioner claims to be the son of the original borrower, viz., [late] Mr.P.Ananthabaskaran. The Partnership Concern/Firm viz., 'Murugan and Co.', in which the petitioner's father was a partner, availed financial assistance from the 2nd respondent/Bank and in lieu of the defaults committed, recovery proceedings were initiated under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [in short 'the SARFAESI Act']. The Possession Notice dated 12.02.2018 was also issued by the 2nd respondent/Bank for recovery of a sum of Rs.7,02,87973.10p., and it was also followed by an application under Section 14[1] of the SARFAESI Act filed before the 1st respondent for taking actual and physical possession of the secured assets.
- (3) The learned counsel for the petitioner would submit that the 1st respondent has issued a Notice calling upon the legal heirs of [late] Mr.P.Ananthabaskaran, one of the partners of the Firm 'Murugan and Co.' to appear for the enquiry and without being made aware of the contents of the application filed by the 2nd respondent/Bank under Section 14[1] of the SARFAESI Act and the documents enclosed, the petitioner may not be able to effectively participate in the enquiry and therefore, the petitioner is constrained to approach this Court by filing the present writ petition, praying for appropriate direction, directing the 1st respondent to furnish necessary documents.
- (4) Mrs.V.Usha, learned Additional Government Pleader [Puducherry] appearing for the respondents would submit that the enclosures to Section 14[1] Application filed by the 2nd respondent/Bank, are voluminous and the 1st respondent is willing to furnish the same provided the petitioner undertakes to pay necessary charges/expenses.
- (5) The learned counsel for the petitioner, in response to the said submission, undertakes to pay the expenses/charges to be incurred by the 1st respondent for furnishing the said documents.
- (6) This Court has considered the rival submissions and also perused the materials placed before it.
- (7) In the light of the above facts and circumstances, the 1st respondent is directed to send a communication as to the charges/expenses to be incurred by them for furnishing the copy of the application filed by the 2nd respondent/Bank under section 14[1] of the SARFAESI Act, along with the enclosures within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the petitioner is

at liberty to pay the same and as and when payment is effected, the 1st respondent shall furnish the application along with the enclosures as expeditiously as possible.

(8)The writ petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Special Officer cum Executive Magistrate
Office of the District Collector cum District Magistrate
Puducherry.
- 2.The Authorised Officer
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+1cc to the Government Pleader Sr.10668

WP.No.3175/2020

ln[co]
srg 10/03/2020

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