

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No.9945 of 2020

Indian Overseas Bank,
Asset Recovery Management Branch,
No.11/952, Cross Cut Road,
Coimbatore-641 012,
Rep. by its Chief Manager.

... Petitioner

-Versus-

1.The District Collector and
District Magistrate, Coimbatore.

2.The Tahsildar,
Coimbatore North Taluk, Coimbatore.

3.M/s. Hi-Tech Minerals Industries Covai Pvt. Ltd.
(In Liquidation)

Represented by its Official Liquidator,
High Court, Corporate Bhawan
(UTI Buildings), 2nd Floor, No.24,
Rajaji Salai, Chennai 600 001.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus directing the second respondent to comply with the order passed in REF.No.19478/2014/E3 dated 22.10.2019 passed by the 1st respondent.

For Petitioner .. Mr.M.L.Ganesh

For Respondents .. Mr.G.K.Muthukumar,
Spl.G.P. for R1 and R2

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

This is a very unfortunate case which we are facing with.

2. The learned counsel appearing for the petitioner submitted that though the outstanding has already crossed rupees five hundred crores, the petitioner bank is unable to recover anything notwithstanding the orders obtained. Earlier an order was obtained in W.P.No.8570 of 2020 on 16.07.2020 in respect of another property and the same has also not been complied with. Even in that case, all the proceedings have concluded and there was no prohibition.

3. The learned counsel appearing for the petitioner further submitted that in the case on hand, there was serious objection through the lawyer supported by the other persons representing the borrower from taking possession. Thus, mere keys were handed over without drawing any panjanama by way of inventories. The vehicles have been parked blocking the ingress and egress. The Official Liquidator has no objection in handing over the possession of the first floor while for the ground floor there is an agreement to continue with the existing tenants. Regarding the other portions, the tenants are not in existence. Therefore, inventories will have to be taken by recording panjanama and thereafter, possession will have to be handed over.

4. The learned Special Government Pleader appearing for the respondents submitted that in so far as the building which is the subject matter of the writ petition in W.P.No.8570 of 2020, the possession has already been handed over in favour of the petitioner. The learned Special Government Pleader further submitted that the tenants are not forthcoming and therefore, lock and seal has been made and keys were handed over to the petitioner.

5. By way of reply, the learned counsel appearing for the petitioner submitted that the Official Liquidator who was in occupation of the first floor has already agreed to vacate the premises and has given a letter dated 11.01.2019 itself pursuant to the order of this court. For the other tenants, no order has been obtained from the Debts Recovery Tribunal for their status and continuance. Insofar as the movables, if any, is concerned, the petitioner would put the same in a safer place after the inventories are taken.

6. Considering the submissions made, we are of the view that there appears to be a deliberate obstruction apparently from the

group supporting the borrower.

7. The learned counsel for the petitioner submitted that even today scores of persons are standing outside the premises which is the subject matter in W.P.No.8570 of 2020 obstructing from taking possession of the property. The petitioner is a scheduled bank. Admittedly, it is a lender in whose favour orders have already been obtained. These orders have reached the finality. Under the scheme of the Act, the Tahsildar will have to facilitate the handing over possession after making inventories.

8. We need not travel beyond the order passed under Section 14(1) and (2) of the SARFAESI Act. The order speaks for itself. The said order clearly states that possession will have to be handed over after taking inventories and after drawing panjanama. The police protection was also directed to be given as per the order. Therefore, the Tahsildar is directed to take police protection by taking inventories of the properties which are subject matter of the writ petition and if no inventory was taken in the earlier writ petition, the same also will have to be taken. Thereafter, the possession will have to be handed over to the petitioner. We may also record the fact that for the ground floor in the present property, Federal Bank was agreed to continue by the auction purchaser. Therefore, the said bank need not be disturbed. For the first floor, the Official Liquidator has already given his consent. Therefore, possession can be taken. For the remaining floors where there is nobody in possession though it is stated to be in the possession of the alleged tenants. Therefore, movables, if any, after taking inventories can be placed by the petitioner in a different place. We also specifically direct the Tahsildar to take inventories of the properties which are subject matter of the writ petition as well as the properties which are subject matter in earlier writ petition in W.P.No.8570 of 2020, if not taken already. As we anticipate some obstructions from certain elements, the Tahsildar will have to take assistance of the police for carrying out the directions issued.

9. Insofar as the vehicles parked are concerned, they should be removed and kept with the custody of the concerned police station. It is will open to the Tahsildar to inform the tenants, if he is able to identify their whereabouts as they are not willing to come and lay a claim as of now. In that case, they can be permitted to take their belongings if so advised.

10. This writ petition is disposed of accordingly with the

above directions. Post this matter on 09.09.2020 for reporting compliance.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

raa/kmk

To

- 1.The District Collector and District Magistrate, Coimbatore.
- 2.The Tahsildar, Coimbatore North Taluk, Coimbatore.
- 3.The Joint Registrar, Writ Section, Madras High Court (Posted for Compliance)

W.P.No.9945 of 2020

CNR (CO)
GS (24/08/2020)

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