

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2020

CORAM

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

W.P.No.12151 of 2020

Victory Knit Fashions,
Rep by its Partner - Mr.J.Sukumar,
No.2/987 E, 5th South Street,
Mahalaxmi Nagar,
Palladam - 641 664. Petitioner

Vs.

Bank of India,
Rep by its Authorised Officer,
Asset Recovery Department,
Star House, No.324, Oppanakara Street,
Coimbatore - 641 001. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus forbearing the Respondent, their men, officers, Agents, Servants, Representative or any one claiming through or under them or any other person from proceeding any further in terms of Sale dated 20.09.2019 till such time the appeal to be filed by the petitioner to the Debts Recovery Tribunal at Coimbatore and accordingly.

For Petitioner .. Mr.S.Ezhilraj

For Respondent ... Mr.Benjamin George

ORDER

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

This writ petition has been filed by the petitioner seeking an Omni bus and a comprehensive prayer to the effect that till the appeal is disposed of by the Debts Recovery Tribunal, Coimbatore, no further action can be taken towards taking possession.

2.The petitioner is the borrower of the respondent-Bank. Proceedings have been initiated against the petitioner invoking Section 14 of the SARFAESI Act. The petitioner has sought for time till 07.09.2020 for handing over possession. Thereafter, the petitioner has filed an application for condonation of delay before the jurisdictional Tribunal and rushed to this Court seeking an order.

3.The learned counsel appearing for the petitioner submitted that the statement recorded from the petitioner cannot be construed to mean that he has given up his right to challenge the order passed under Section 14 of the SARFAESI Act.

4.The learned counsel appearing for the respondent-Bank submitted that more than a year has elapsed since the sale was completed. The petitioner has given an undertaking to hand over possession before 7th September, 2020 (today). In the mean time, he has filed an application for condonation of delay of 335 days. The said application is also yet to be numbered and therefore, the relief sought for cannot be granted.

5.The facts are not in dispute. The petitioner did make a statement seeking time to hand over the possession. However, he has also filed an application before the jurisdictional Debts Recovery Tribunal, Coimbatore, challenging the order passed under Section 14 of the SARFAESI Act. In such view of the matter, we only direct the Tribunal to number the application and consider the same within a period of two weeks from the date of receipt of a copy of this order. Till such time, status quo, as on today, shall be maintained.

The writ petition stands disposed of accordingly. No costs.

-s/d-

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

To

1.The Authorised Officer,
Bank of India,
Asset Recovery Department,
Star House, No.324, Oppanakara Street,
Coimbatore - 641 001.

2.The Presiding officer
Debts Recovery Tribunal
Coimbatore

W.P.No.12151 of 2020

SS (CO)
SP(10/09/2020)



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