

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.35649/2019 & WMP.NO.36549/2019

Central Bank of India
Kalapatti Branch, 28, Sri Vare Towers
opp.SITRA, Avinashi Road
Civil Aerodrome Post
Coimbatore 641 014.
rep by its Chief Manager

Petitioner

Versus

1.The Assistant Director and
Personal Assistant to District Collector
Land Survey Register Department
Coimbatore 641 018.

2.The Tahsildar
Annur Taluk Office
Coimbatore District.

3.M/s.D.J.Textiles
Prop.Mrs.D.Jayanthi
No.6/121, Ponnengoundenpudur
S.S.Kulam, Annur
Coimbatore 641 107.

Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of mandamus directing the 2nd respondent to comply with the direction passed in Na.Ka.No.7161/2019/E-3 by the 1st respondent in letter dated 14.10.2019.

For Petitioner : Mr.M.L.Ganesh

For R1 & R2 : Mr.A.N.Thambidurai, Spl.GP

ORDER

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

- (1) By consent, the writ petition is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 1 and 2.
- (2) The petitioner / Bank, in the affidavit filed in support of this writ petition would aver among other things, that the 3rd respondent had availed a loan to the tune of Rs.2.75 Crores and created security by way of mortgage in respect of the land in S.NO.719/2A admeasuring to an extent of 2.30 acres and 82 cents in S.No.719/2C situate at Masakavundanchettipalayam Village, Annur Taluk, Coimbatore District and equitable mortgage created in this regard was also registered as Doc.No.7565/2011 on the file of the office of the Sub Registrar, Annur and that apart, primary security has been created by way of hypothecation of stocks, book debts, receivables and collateral security. It is further averred that since the 3rd respondent has committed default in payment of the dues, action under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [in short 'SARFAESI Act'], was initiated and a Demand Notice under Section 13[2] of the said Act was issued on 20.05.2015 to the 3rd respondent as well as to the guarantors and those notices were duly acknowledged by them and despite receipt and acknowledgment of notices, settlement could not take place and therefore, Possession Notice was issued under Section 13[4] of the SARFAESI Act on 05.08.2015. The petitioner/Bank also filed an application under Section 14 of the SARFAESI Act to take physical possession of the property and accordingly, physical possession was handed over to the petitioner/Bank on 21.08.2019.
- (3) The learned counsel for the petitioner would submit that the 3rd respondent is also having some lands adjacent to the lands which are the subject matter of security and since the 3rd respondent was creating some problems, in order to demarcate the land by way of measurement, necessary application was also filed before the 2nd respondent. The learned counsel for the petitioner has also drawn the attention of this Court to the communication of the 1st respondent dated 14.10.2019 in Na.Ka.No.7161/2019/E3 addressed to the 2nd respondent and would submit that despite such a direction followed by the Notice issued by the Firka Surveyor dated 14.10.2019 in Na.Ka.No.7161/2019/E3, no further action has been taken to measure and demarcate the land and left with no other option only, the petitioner/Bank is constrained to approach this Court by filing the present writ petition.

(4)The Court heard the submissions of Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 and 2 and also perused the materials placed before it.

(5)This Court, taking into consideration, the above facts and circumstances and without going into the merits of the claim projected by the petitioner/Bank in this writ petition, directs the 2nd respondent to put on notice, the 3rd respondent herein and cause measurement and survey and demarcate the lands which are the subject matter of security created in favour of the petitioner/Bank by the 3rd respondent and the entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order and the 2nd respondent shall send necessary communication in this regard to the petitioner as well as the 3rd respondent herein.

(6)The writ petition stands disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

AP

To

1.The Assistant Director and
Personal Assistant to District Collector
Land Survey Register Department
Coimbatore 641 018.

2.The Tahsildar
Annur Taluk Office
Coimbatore District.

3.The Chief Manager.
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opp.SITRA, Avinashi Road
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Coimbatore 641 014.

+1cc to Mr.M.L.Ganesh, Advocate SR.No.1522

+1cc to Government Pleader SR.No.1312

WP.No.35649/2019

NR(CO)
GMY(11/02/2020)



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