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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.35886 of 2019
and WMP.No.36798 of 2019

M.Anandabalaji .. Petitioner
Versus

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The Tahsildar,
Pollachi, Coimbatore District.

3.Tamil Nadu Mercantile Bank Limited,
Pollachi Branch
rep. By its authorized Officer
Door Numbers 76 and 77,
New Scheme Road, Pollachi 642 001.

4.Mr.Sasi Kumar ...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 certified copy of order passed under Section 14 of the SARFAESI ACT against the Petitioner herein and consequently forbear the respondents from interfering in any way with the peaceful possession and enjoyment of the Property comprised in S.F.NO 24/1(Old No 24) situated at Door No 2/142 (New Door No 2/245), Devi Nagar, Plot No.A1 Solapalayam village, Pollachi, by the Petitioner, till the date of serving the copy of the order passed under section 14 of the SARFAESI ACT by the 1st Respondent and the expiry of the appeal period from the date of receipt of copy of the order and pass such other and further relief.



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For Petitioner : Mr.Edwin Prabakar
For Respondent : Mr.Akhil Akbar Ali
Government Advocate for R1 & R2
Mr.Elayraj Kumar
for M/s.Ramalingam Associates for R4
Mr.V.Chandrasekaran for R3

ORDER

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

Mr.Edwin Prabakar, learned counsel appearing for the petitioner would submit that though the petitioner / guarantor of the borrower / his father had participated in the proceedings under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcements of Security Interest Act 2002 before the 1st respondent and that the order also came to be passed on 16.08.2019, he has not been furnished with the copy and since he is entitled to challenge the said order by filing an appeal, prays for appropriate direction to furnish a copy of the order and in the interregnum, prays for stay of all further proceedings, pursuant to the said order.

2. This Court heard the submission of Mr.Akhil Akbar Ali, learned Government Advocate, who accepts notice on behalf of the respondents 1 and 2 and would submit that since the petitioner himself has participated in the said proceedings, nothing prevented him to apply for copy of the same and for the reasons best known to him, he has not chosen to do so.

3. The learned counsel appearing for the 3rd respondent would submit that since the petitioner has participated in the proceedings and aware of the order of the 1st respondent dated 16.08.2019, he did not take any steps to get the copy of the order and the third party interest has also come in place and the 4th respondent is a successful auction purchaser and would further add that the primary object of the petitioner is to drag on the proceedings.

4. The learned counsel appearing for the 4th respondent would submit that the petitioner himself has set up a tenant, who has been inducted into possession and charge was created and the said tenant has filed O.S.No.247 of 2019 on the file of the District Munsif, Pollachi, against the 4th respondent for permanent injunction restraining the defendant / 4th respondent from interfering with the peaceful possession and enjoyment of



the suit property till he is evicted under due process of law and however no interim orders are in operation and further points out that the very same plaintiff, who said to be the tenant, filed O.S.No.317/2019 on the file of the District Munsif, Pollachi for similar relief and also obtained an interim order of ad-interim injunction and would further add that the petitioner is guilty of abuse of process of law and prays for dismissal of this petition with exemplary costs.

5. The 4th respondent has also filed the typed set of documents dated 04.01.2020 and Document No.2 is the order dated 16.08.2019 passed by the 1st respondent under Section 14 of the SARFAESI Act. Since the said order has been furnished in the form of typed set of documents filed by the 4th respondent, the petitioner is at liberty to use the said order and work out his remedy in accordance with law, if he is so advised and if it is available to him under law, subject to law of limitation.

6. The Writ Petition is dismissed subject to the above observations. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

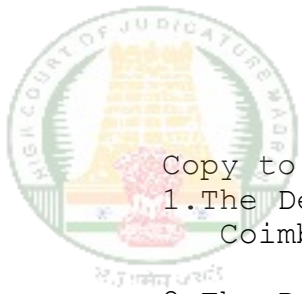
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To

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The Tahsildar,
Pollachi, Coimbatore District.

3.The Authorized Officer,
Tamil Nadu Mercantile Bank Limited,
Pollachi Branch
Door Numbers 76 and 77,
New Scheme Road, Pollachi 642 001.



Copy to:

1.The Debts Recovery Tribunal
Coimbatore.

2.The Debts Recovery Tribunal,
Madurai.

+1 cc to Mr.V.Chandrasekaran Advocate sr1684
+2 ccs to Mr.A.Edwin Prabhakar Advocate sr1502
+1 cc to the Government Pleader sr1315
+2 ccs to M/s.Ramalingam & Associates sr 712

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