



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.7076 of 2020

Bank of India,
Door No.44,
Chairman Shanmugam Road,
Sivakasi - 626 123,
represented through its
Chief Manager.

... Petitioner

Vs.

1.The District Magistrate/
District Collector,
Virudhunagar.

... 1st Respondent

2.N.Venkatesh
Proprietor of
M/s.Sorna Print Systems,
D.No.639-A to 639-V,
Srivilliputtur Main Road,
Near Railway Gate,
Satchiyapuram,
Anaiyur Village,
Sivakasi.

3.M/s.Sorna Print Pack,
represented by
The Managing Partner,
N.Venkatesh

4.N.Venkatesh,
Partner,
M/s.Sorna Print Pack

5.V.Subha,
Partner,
M/s.Sorna Print Pack

6.M/s.Sorna Packaging Industries,
represented by
The Managing Partner,
N.Venkatesh

7.N.Venkatesh
Partner,
<https://hcservices.ecourts.gov.in/hcservices/>



M/s.Sorna Pacakaging Industries

8.V.Subha
Partner,
M/s.Sorna Packaging Industries

9.M/s.Sorna Arts Crafts,
represented by
The Managing Partner,
N.Venkatesh

10.N.Venkatesh,
Partner,
M/s.Sorna Arts Crafts

11.V.Subha,
Partner,
M/s.Sorna Arts Crafts

12.V.Subha,
Proprietor,
M/s.Ganesh Colour Pack,
D.No.639-A, Srivilliputtur Road,
Near Railway Gate,
Satchiyapuram, Sivakasi.

13.Srikanth,
Proprietor,
M/s.Sri Muruan Colour Pack,
D.No.1/531,
Sivakasi Co-operative Industrial Estate,
Reserve Line,
Sivakasi - 626 124.

... Respondents 2 to 13

[R.2 to R.13 are impleaded as party respondents vide order of this Court made in W.M.P(MD)No.8447 of 2020 in W.P(MD)No.7076 of 2020, dated 14.08.2020]

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent to consider the petitioner's petition bearing No.C3/2972/2017, dated 15.12.2016 within the time stipulated by this Court.

For Petitioner : Mr.Pala.Ramasamy

For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader for R.1



ORDER

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

The petitioner bank had provided financial assistance to the private respondents/borrowers and they committed default in payment of dues and their liabilities as on 29.02.2020 is Rs.17,52,27,395/- (Rupees Seventeen Crores Fifty Two Lakhs Twenty Seven Thousand Three Hundred and Ninety Five only). The petitioner, in order to recover the dues, had initiated the proceedings under Sections 13(2) and 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, (in short 'SARFAESI Act') and since the terms of the said notices have not been complied with, the petitioner/bank approached the first respondent under Section 14 of the SARFAESI Act to take actual physical possession, vide application dated 15.12.2016.

2. Learned Counsel for the petitioner would submit that the said application is kept pending for nearly four years without any reasonable cause/justification and left with no other option, the petitioner/bank is constrained to approach this Court by filing the present writ petition.

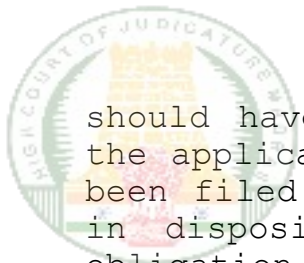
3. Mr.K.P.Krishnadoss, learned Special Government Pleader appearing for the first respondent would submit that the first respondent vide communication in C3/2972/2017, dated 13.08.2020, has passed orders in the form of rejection of the application of the petitioner/bank.

4. At this juncture, the learned Counsel for the petitioner/bank would submit that as and when the said order is served, the petitioner/bank may be granted liberty to challenge the said order.

5. This writ petition was listed for admission on 06.07.2020 and on that day, the learned Special Government Pleader accepted notice on behalf of the sole respondent and the petitioner/bank undertook to implead the borrowers and accordingly, filed W.M.P(MD) No.8447 of 2020 and the same came to be ordered today (14.08.2020).

6. The matter was again called on 27.07.2020 and it was adjourned to 14.08.2020 at the request of the learned Counsel for the petitioner. It is rather surprising to note that a simple application filed by the petitioner/bank on 15.12.2016 under Section 14 of the SARFAESI Act is kept pending for nearly four years.

7. It is also to be noted at this juncture that the dues as on 29.02.2020, according to the petitioner/bank, is Rs.17,52,27,395/- (Rupees Seventeen Crores Fifty Two Lakhs Twenty Seven Thousand Three Hundred and Ninety Five only) and therefore, the first respondent



should have exhibited some seriousness or attention to dispose of the application at an earliest point of time. No affidavit has also been filed on behalf of the first respondent for such a long delay in disposing of the said application in spite of a statutory obligation is cast upon the first respondent to dispose of the said application. The first respondent also sent a communication vide C3/2972/2017, dated 14.02.2020, informing the stand of the borrowers in the form of a representation dated 31.01.2020, may be for the purpose of getting over the said delay.

8. It is a well settled position of law that at the time of consideration of the application filed under Section 14 of the SARFAESI Act, the only obligation cast upon the first respondent is as to whether the measures initiated by the petitioner/bank under Sections 13(2) and 13(4) of the SARFAESI Act are in order and not beyond that. It may not be necessary to hear the borrowers also.

9. In the considered opinion of this Court, the delay on the part of the first respondent, in the absence of any affidavit, is unsustainable and whatever the nature of the order, the said official is going to pass, he should have passed the same within a reasonable time.

10. In the result, this writ petition is disposed of and the petitioner/bank is granted liberty to challenge the order passed by the first respondent on 13.08.2020 in C3/2972/2017. No costs.

Sd/-

Assistant Registrar (AD-II)

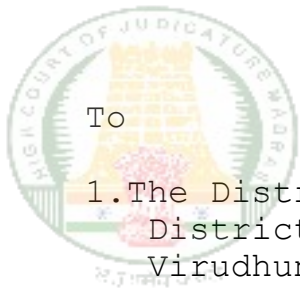
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/ /2020

Sub Assistant Registrar(CS)

RSB

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The District Magistrate/
District Collector,
Virudhunagar.

Copy To:- 1.The Chief Secretary,
Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.

2.The Principal Secretary to Government,
Revenue Department,
Secretariat,
Chennai - 600 009.

+1 CC to M/s.GP (SR-14166[F] dated 17/08/2020)

W.P. (MD)No.7076 of 2020
14.08.2020

AP(27/08/2020) 5P 5C