

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.12579 of 2021
and W.M.P.No.13378 of 2021

M/s. Anu Sree Ranga Ginning
Factory, Rep. by its Partner, K.Jothi Kumar
S/o. H.F. Chettiyar, No. 13/2-L, Sathy Road,
S.S.Kulam, Coimbatore 641 107. ... Petitioner

Vs.

- 1 The District Collector and District Magistrate,
No. 7/1, State Bank Road,
Gopalapuram, Coimbatore 641 018.
- 2 The Tahsildar,
Annur Taluk, Coimbatore 641 653.
- 3 The Authorised Officer
M/s. Corporation Bank, Coimbatore SME Branch,
SA Mills Ltd, Saravanampatti,
Coimbatore 641 035. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the 1st respondent in Ref. No. 11472/ 2019/E3 dated 27.04.2021 and quash the same consequently direct the 2nd respondent not to take physical possession of the property viz. punja acres 2.30 S. F. No. 103/1 Sankar Semmakulam Village Annur Taluk Coimbatore District Coimbatore within the Perianaickanpalyaam Registration District Coimbatore District in pursuance of the order passed by the 1st respondent dated 27.4.2021.

For Petitioner : Mr.A.Deivasigamani

For Respondents : Mr.P.Muthukumar
Counsel for Government
for RR 1 and 2

ORDER

(Made by the Hon'ble Chief Justice)

The petition is completely misconceived.

2. The petitioner, which has admittedly obtained credit facilities from the third respondent bank, complains of an order passed by the first respondent District Magistrate under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. It is elementary that in passing an order under Section 14 of the Act, the relevant authority does not exercise any power of adjudication. All that the authority in receipt of a request under Section 14 of the Act has to see is whether the declarations in terms of such provision have been furnished by the secured creditor. Thereupon, executive assistance is extended in accordance with law for the secured creditor to have access to the secured assets or the documents pertaining thereto.

4. In the extreme situation, there is a theoretical possibility of an order under Section 14 of the Act being challenged; but that is only when the order is grossly disproportionate to the assistance sought or the order is beyond the jurisdiction of the authority which passed the order.

5. In the present case, the grievance of the petitioner is restricted to orders being passed facilitating the secured creditor taking possession of the secured assets. This is a routine order which is usually passed upon a request under Section 14 of the Act being made. The authority approached under Section 14 of the Act is not required to issue any notice to any debtor or any opportunity of hearing or representation to any person and must consider the request on the basis of the declarations furnished before such authority.

6. The remedy of the petitioner lies in challenging the measures adopted by the secured creditor by invoking Section 17 of the Act.

7. Accordingly, W.P.No.12579 of 2021 is dismissed and the petitioner is left free to approach the appropriate Debts Recovery Tribunal under Section 17 of the Act in accordance with law. There will be no order as to costs. Consequently, W.M.P.No.13378 of 2021 is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

sra

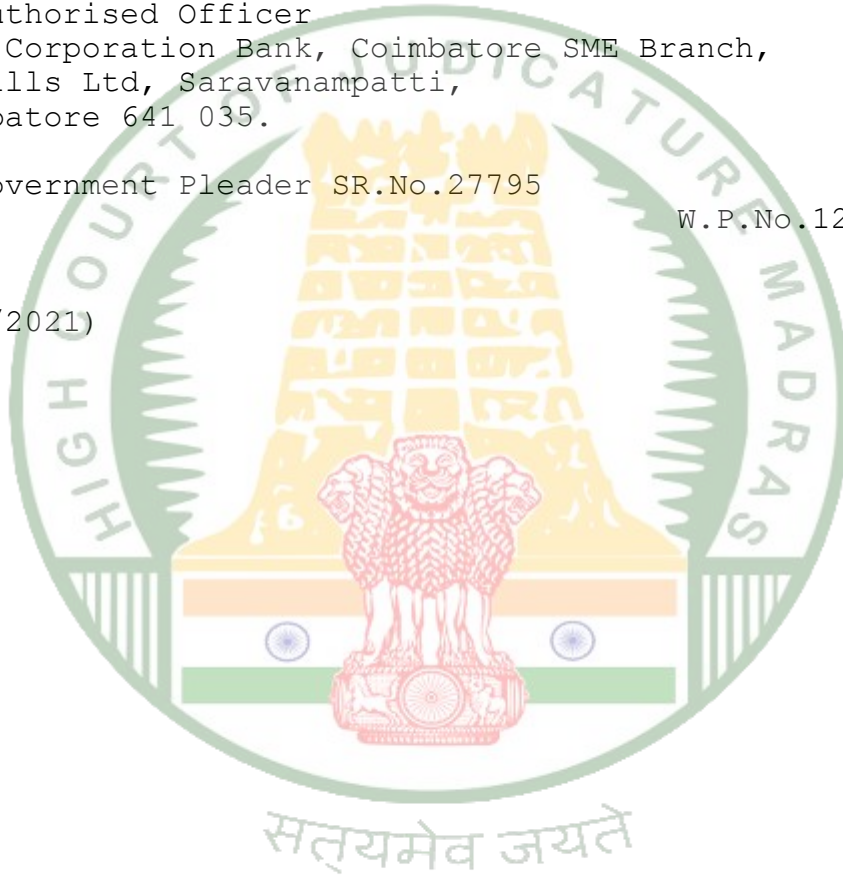
To:

- 1 The District Collector and District Magistrate,
No. 7/1, State Bank Road,
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- 2 The Tahsildar,
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- 3 The Authorised Officer
M/s. Corporation Bank, Coimbatore SME Branch,
SA Mills Ltd, Saravanampatti,
Coimbatore 641 035.

+1cc to Government Pleader SR.No.27795

W.P.No.12579 of 2021

BS (CO)
GMY (17/06/2021)



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