



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.16450 of 2021
and W.M.P.No.17418 of 2021

P.A.Sankar

...Petitioner

Vs

1.The District Collector Cum
District Magistrate
Office of the District Collector,
Puducherry.

2.Tashildar Cum Executive Magistrate
Department of Revenue and Disaster
Management Taluk Office, Villianur.

3.The Authorised Officer,
IDBI Bank Ltd. RBG - Regional Officer - TN
No.37 P.M. Towers Greams Road
Chennai 600 008.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the 1st and 2nd respondent from implementing the notice dated 20/07/2021 vide No.2185 / TOV / SARFAESI / A6 /2021 pending disposal of the waiver application in I.A.No.460 /2021 in A.I.R. No.128 /2021 pending on the file of the Debt Recovery Appellate Tribunal Chennai.

For Petitioner : Mr.R.Sreedhar

For Respondents : Mrs.N.Mala,
Government Pleader, (Puducherry),
for RR 1 and 2



ORDER

(Made by the Hon'ble Chief Justice)

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2. According to the petitioner, though the order of the District Collector refers to the dues being in excess of Rs.7.45 crore, subsequent payments made to the secured creditor have considerably brought down the dues. The secured creditor also refers to proceedings before the jurisdictional Debts Recovery Tribunal and the orders passed by such tribunal.

3. It is possible that subsequent events may have overtaken a request kept pending by the relevant official for a long period of time. However, the essence of the directions issued under Section 14 of the Act has nothing to do with the quantum of debt which is indicated as long as there is a debt due and as long as there is some immovable property which the secured creditor has a right to pursue for the realisation of the debt.

4. Apart from the fact that the petitioner appears to have approached the court belatedly against the order of the Collector passed in November, 2020, such order merely reflects the secured creditor's intention to proceed against the secured asset which has been described in the impugned order. The authority exercised under Section 14 of the Act is to merely provide executive assistance to a secured creditor who has made a request under such provision to have access to the secured asset or the title deeds or papers relating thereto. No adjudication is conducted by the concerned official under such provision. Thus, the order of the concerned official may not be directly challenged, though the underlying measures sought to be taken by the secured creditor as evident from the order of the relevant official may be assailed. However, it is the Debts Recovery Tribunal which is the statutory forum to receive such a challenge and the Writ Court will be slow to open its doors in such a situation, particularly when there is an efficacious, alternative remedy available to the petitioner. In any event, the petitioner complains that the assistance rendered or proposed to be rendered by the executive authority may be at variance with subsisting orders of the jurisdictional DRT. Even if such argument is accepted at face value, it would be more



appropriate to approach the relevant DRT for such DRT to look into the petitioner's claim whether the order of such forum had been violated by the issuance of the order of assistance by the concerned official or whether the secured creditor had overreached the DRT in obtaining the order for assistance.

5. For the reasons aforesaid, the merits of the petitioner's allegations are not gone into in this extraordinary jurisdiction and the petitioner is left free to approach the appropriate Debts Recovery Tribunal in accordance with law.

W.P.No.16450 of 2021 is disposed of. There will be no order as to costs. Consequently, W.M.P.No.17418 of 2021 is closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

sra

To

- 1.The District Collector Cum
District Magistrate,
Office of the District Collector,
Puducherry.
- 2.Tashildar Cum Executive Magistrate,
Department of Revenue and Disaster
Management, Taluk Office Villianur.
- 3.The Authorised Officer,
IDBI Bank Ltd. RBG - Regional Officer - TN,
No.37 P.M. Towers, Greams Road,
Chennai 600 008.

Copy to

Debts Recovery Appellate Tribunal, Chennai.

W.P.No.16450 of 2021

RLD(CO)
RVM(12/08/2021)