



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

WEB COPY

W.P.(MD) No.2601 of 2021
and W.M.P.(MD) No.2137 of 2021

The Authorized Officer,
M/s. City Union Bank Ltd.,
Tirunelveli Junction Branch,
Branch at No.78, Perumal Sannathi Street,
Veeraragahavapuram,
Tirunelveli District.

... Petitioner

Vs.

- 1.The District Collector,
Tirunelveli,
Tirunelveli District.
- 2.The Sub-Collector,
Seranmadevi,
Tirunelveli District.
- 3.The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.
- 4.M/s.New Vaccines Centre,
No.61/30, Perumal North Car Street,
Tirunelveli Junction - 627 006.
- 5.P.Jeyarani
- 6.Lionel Sherith
- 7.Jamal Abdul Nasar
- 8.Dr.Thangaraj
- 9.Balaji Krishnasamy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 3rd Respondent to cooperate with 8th Respondent herein to remove the Lock and Seal of the ground floor of the mortgaged property bearing Door No.31, situated at Mohiden Aandavar Street, Moolakaraipatti, Tirunelveli - 627 354 and to take physical possession of the said property to conduct the auction for realizing the loan amount of the 4th to 7th respondents herein dues to bank in accordance with the SARFAESI Act.



For Petitioner : Mr.M.Prakash
For Respondent Nos.1 to 3 : Mr.A.K.Manickam
Standing Counsel for Government
For Respondent No.5 : Mr.M.Maharaja
For Respondent Nos.4, 6 to 9: No appearance

O R D E R

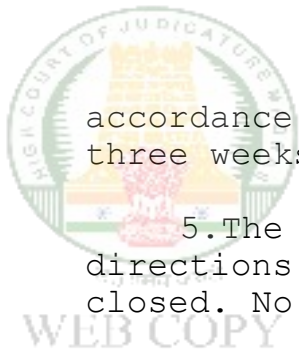
[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

We have heard Mr.M.Prakash, learned counsel appearing for the petitioner, Mr.A.K.Manickam, learned Standing Counsel for Government, appearing for the respondent Nos.1 to 3 and Mr.M.Maharaja, learned counsel for respondent No.5.

2.This Writ Petition has been filed seeking for a direction upon the 3rd Respondent to cooperate with the 8th Respondent herein to remove the Lock and Seal of the ground floor of the mortgaged property bearing Door No.31, situated at Mohiden Aandavar Street, Moolakaraipatti, Tirunelveli - 627 354 and to take physical possession of the said property to conduct the auction for realizing the loan amount of respondent Nos.4 to 7's due to bank in accordance with the SARFAESI Act.

3.The petitioner is a secured creditor, from whom, respondent No.4 has borrowed funds and defaulted in repayment. Action was initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, which is now culminated into the order passed in Crl.M.P.No.2813 of 2020, by the Chief Judicial Magistrate, Tirunelveli and a learned Advocate Commissioner was appointed to take possession of the property. When the petitioner along with the Advocate Commissioner requested to cooperate with the taking over possession, the third respondent sent a communication stating that the fourth respondent premises has been locked and sealed and on enquiry it came to the notice of the petitioner that on account of a death, which occurred in the clinic, alleging that there is negligence, there appears to have been agitation and therefore, the premises has been sealed.

4.If appropriate action was taken by conducting enquiry, criminal case would have been registered against the person, who was cause for the negligence. In any event, the petitioner being a secured creditor is entitled to his rights, exercisable under the SARFAESI Act. Therefore, the third respondent shall examine all the aspects and thereafter pass a reasoned order on merits and in



accordance with law. This direction shall be complied with within three weeks from the date of receipt of a copy of this order.

5.The Writ Petition stands disposed of with the above directions. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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 Collector,
Tirunelveli,
Tirunelveli District.

2.The Sub-Collector,
Seranmadevi,
Tirunelveli District.

3.The Tahsildar,
Nanguneri Taluk,
Tirunelveli District.

+1 CC to M/s.M.PRAKASH, Advocate (SR-24078[F] dated 27/07/2021)

+1 CC to M/s.SPL GP (SR-24189[F] dated 28/07/2021)

ORDER MADE IN
W.P. (MD) No.2601 of 2021
26.07.2021

SSS(CO)

TR(04.08.2021) 3P 6C