



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.03.2021

CORAM:

**THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA**

W.P.(MD) No.3214 of 2021

and

W.M.P(MD) Nos.2540 and 2541 of 2021

R.Anandhan

... Petitioner

-vs-

1.The District Collector/District Magistrate,
Collector Office, Madurai District,
Madurai.

2.The Tahsildar,
Usilampatti,
Madurai District.

3.The Authorised Officer,
Muthut Home Finance Company Ltd.,
No.84, 2nd Floor, South Veli Street,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records pertaining to the impugned order passed by the first respondent in his R.O.C.No.C6/56762/2016, dated 28.11.2019 and set aside the same as illegal.

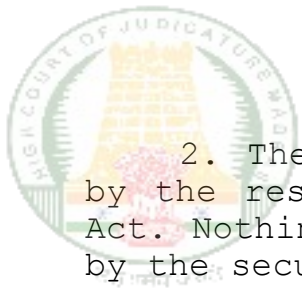
For Petitioner : Mr.A.Chandrakumar, Advocate

For Respondents : Mr.N.Shanmugaselvam
Additional Government Pleader for R1&2
Mr.P.Pethu Rajesh, Advocate for R3

O R D E R

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

This is a frivolous petition by an obvious dishonest defaulter and it is directed against an order passed by the appropriate authority under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.



2. There is no reference in the petition to any notice issued by the respondent finance company under Section 13(2) of the said Act. Nothing is said of any further notice regarding measures taken by the secured creditor under Section 13(4) of the Act.

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3. The petitioner has challenged an order dated November 28, 2019, issued by the District Collector under Section 14 of the Act. Such provision requires the appropriate authority approached thereunder to take note of the several declarations that ought to be made by the secured creditor applicant, whereupon the authority extends the executive and administrative support for the secured creditor to take possession of the secured assets. No business of adjudication is undertaken at the Section 14 stage, but the declarations are mandatory and the authority has to take such declarations at face value.

4. One of the declarations indicated is under clause (vi) of the proviso to Section 14(1) of the Act that a 60-day notice as required by Section 13(2) of the Act has been served. Clause (viii) of the same provision requires a further declaration to be made by the secured creditor that upon no repayment being made, the secured creditor was entitled to proceed under Section 13(4) of the Act.

5. In the order dated November 28, 2019, the relevant Collector has referred to notices issued by the secured creditor to the petitioner herein. Indeed, the Collector has extracted a substantial part of Section 14 of the Act in the order and upon being satisfied that the conditions had been complied with, passed necessary directions to provide administrative assistance for the assets to be taken possession of.

6. The petitioner in this case appears to have suppressed the notices that may have been issued under Section 13(2) of the Act and all measures taken by the secured creditor under Section 13(4) of the Act. The petitioner says that the proceedings instituted by him before the Debts Recovery Tribunal stood rejected by an order dated January 11, 2021. The relevant petition, presumably under Section 17 of the Act, was filed on January 8, 2021.

7. It is evident that not only did the petitioner pay no heed to any notice under Section 13(2) of the Act that may have been received or any further notice under Section 13(4) of the Act, but the petitioner did not take steps within reasonable time of the order dated November 28, 2019, being passed. No copy of the order passed by the Debts Recovery Tribunal has been made available though the petitioner claims that his petition has been dismissed by the tribunal on the ground of limitation.

8. In the scheme of the things under the Act of 2002, the writ <https://hcservices.hcs.in/hcservices/> has to play unless there is a substantial



miscarriage of justice. In the present case, the petitioner appears to have concealed facts and not taken any steps to either repay the secured creditor or complain at the appropriate stage to the Debts Recovery Tribunal.

9. For the reasons aforesaid, the writ Court cannot come to the assistance of the petitioner, obviously a defaulter, at this stage, when possession of the secured assets may already have been taken.

10. W.P.(MD)No.3214 of 2021 is dismissed. There will be no order as to costs. Consequently, W.M.P(MD)Nos.2540 and 2541 of 2021 are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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/District Magistrate,
Collector Office, Madurai District,
Madurai.

2.The Tahsildar,
Usilampatti,
Madurai District.

+1 CC to M/s.SPL GP (SR-9153[F] dated 05/03/2021)

+1 CC to M/s.P.PETHU RAJESH, Advocate (SR-8878[F] dated
04/03/2021)

W.P. (MD) No.3214 of 2021

and

W.M.P (MD) Nos.2540 and 2541 of 2021

04.03.2021

RR/OGY

TK/SAR/12.03.2021/3P/5C