



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.[MD]No.8310 of 2021

and

W.M.P.[MD]No.6287 of 2021

Maharajan

... Petitioner

Vs.

1.The District Collector,
Theni, Theni District.

2.The Tahsildar,
Uthamapalayam,
Theni District.

3.The Branch Manager,
Tamil Nadu Mercantile Bank,
Pannaipuram Branch,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to remove the lock and seal of the petitioner's house bearing Door No.41, Manthaiamman Kovil Street, Kamayagoundampatti, Uthamapalayam Taluk, Theni District and consequently direct the second respondent to handover the possession of the same to the petitioner.

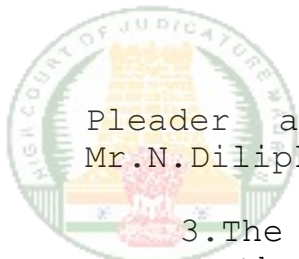
For Petitioner	: Mr.R.Pon Karthikeyan
For Respondents 1 &2	: Mr.N.Shanmuga Selvam Additional Government Pleader
For Respondent No.3	: Mr.N.Dilipkumar

O R D E R

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

With the consent on either side, the Writ Petition itself is taken up for final disposal.

2.Heard Mr.R.Pon Karthikeyan, learned Counsel appearing for the petitioner, Mr.N.Shanmuga Selvam, learned Additional Government Pleader.



Pleader appearing for the first and second respondents and Mr.N.Dilipkumar, learned Counsel for the third respondent.

3.The petitioner seeks for a direction to the respondents to remove the lock and seal which has been affixed by the respondent bank on account of the default committed by the petitioner on repaying the loan. Action has been initiated under the provisions of the SARFAESI, Act and now, the matter is pending before the Debt Recovery Tribunal, Madurai, wherein an order of interim stay has been granted on condition to pay a sum of Rs.5,00,000/- as first installment on or before 16.03.2021 and another sum of Rs.3,53,000/- as second installment on or before 15.04.2021 and a further sum of Rs.3,53,000/- as third installment on or before 15.05.2021.

4.The learned Counsel for the petitioner submitted that the petitioner has already paid the first installment on 11.03.2021 and the second installment on 15.03.2021 and he is ready to pay one more installment and prays that the lock and seal may be removed.

5.The learned Counsel for the respondent bank submitted that the appellant has been dragging on the matter from 2016 and his loan account was classified as NPA as on 31.12.2015. Ultimately, proceedings for sale were initiated and sale notices were issued. The sale did not fructify and thereafter, three sale notices were initiated and only in the last sale notice, the petitioner has approached the Debt Recovery Tribunal.

6.In our considered view, the petitioner cannot invoke parallel remedies. The petitioner has rightly approached the Debt Recovery Tribunal and also an interim order has been granted and the next installment falls due on 15.05.2021 and therefore, in the interregnum, if the petitioner seeks for removal of the lock and seal, it is appropriate that the petitioner approaches the Debt Recovery Tribunal. Hence, we are not inclined to issue any direction in this Writ Petition. But, we give liberty to the petitioner to file appropriate application before the Debt Recovery Tribunal and seek for appropriate relief.

7.With the above observations, the Writ Petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// 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,
Theni, Theni District.

2.The Tahsildar,
Uthamapalayam,
Theni District.

3.The Branch Manager,
Tamil Nadu Mercantile Bank,
Pannaipuram Branch,
Theni District.

+1 CC to M/s.R.PONKARTHIKEYAN, Advocate (SR-17213[F] dated 23/04/2021)

+1 CC to M/s.SPL GP (SR-17348[F] dated 23/04/2021)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-17407[F] dated 26/04/2021)

ORDER MADE IN
W.P. [MD]No.8310 of 2021

DATED
22.04.2021

AS(10.06.2021)3P 7C