BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.06.2021
CORAM
THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.(MD)No.10220 of 2021

Tamilnad Mercantile Bank,
Represented by the Authorized Officer,
Vandiyur Branch,
4/806, Vandiyur Main Road,
Vandiyur,
Madurai - 625 020. ... Petitioner

Vs.

The Chief Judicial Magistrate,
Madurai. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Chief Judicial Magistrate, Madurai to expeditiously dispose the petition Cr.M.P.No.750 of 2020 filed by the petitioner u/s 14 of the SARFAESI Act pending before the Chief Judicial Magistrate, Madurai.

For Petitioner : Mr.N.Dilipkumar
Standing Counsel

ORDER

(Order of the Court was made by T. S. SIVAGNANAM, J.)

The Writ Petition has been filed by the Tamilnad Mercantile Bank, praying for a direction upon the Court of Chief Judicial Magistrate, Madurai to expeditiously dispose of the petition in Cr.M.P.No.750 of 2020.

2.It appears that the borrower has also filed a counter affidavit in the application filed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, wherein the borrower requested time till May, 2021, which time also expired. It is submitted that the matter has been posted on 22.06.2021.

3.The learned Chief Judicial Magistrate is requested to dispose of the application as expeditiously as possible. For the benefit of the Court, we refer to the decision of the Hon'ble First Bench of this Court in the case of ***Karvy Financial Services Ltd v. The***

District Magistrate and District Collector and others reported in ***2021 SCC Online Mad 1666 : (2021) 3 CTC 383***. In the said decision, the Hon'ble First Bench of this Court has spelt out the role of the Court or the District Magistrate while exercising power under Section 14 of the SARFAESI Act. For better appreciation, we quote paragraph 7 to 9 of the said decision:-

> "7. It is not necessary to go beyond such stage for the purpose of the present proceedings since the operation of Section 14 of the Act comes at such stage where the secured creditor requires executive assistance for the purpose of obtaining possession of the secured asset or documents pertaining thereto. Section 14 of the Act permits certain classes of officials to receive a request under Section 14 of the Act. The extent of the assistance that may be sought would pertain to obtaining possession of any immovable property or possession of or access to certain documents. The authority approached under Section 14 of the Act has only to look into the documents filed by the relevant secured creditor in support of the request. One of such documents ought to be the various declarations as required to be furnished under Section 14 of the Act. Once the authority notices the relevant declarations to have been furnished, such authority has to accept the same at face value and not question the same or seek to adjudicate thereupon.
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> 8. It is of great importance to appreciate that notwithstanding a request being carried to a Chief Judicial Magistrate or to a District Collector, who otherwise may enjoy adjudicatory functions, a request under Section 14 of the Act is for pure administrative assistance and the exercise undertaken by the authority approached thereunder is not adjudicatory at all. Since the entire purpose of the Act of 2002 is to unclog the dues of banks and financial institutions, most of which are state-owned bodies, time is of the essence as indicated in the provisions of the relevant statute. Thus, an authority under Section 14 of the Act is given a time-frame within which the requisite assistance has to be rendered in accordance with law.
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> 9. In proceedings under Section 14 of the Act of 2002, the borrower (which definition includes a guarantor) has no role to play and the authority approached under Section 14 of the Act has no jurisdiction to entertain any grievance by a borrower or to hear the borrower. To repeat, the authority approached under Section 14 of the Act has merely to go by the declarations furnished by a secured creditor, accept the same at the face value and, as long as all the declarations have been furnished, presume that the declarations are correct unless obviously apparent to be false."

4.In the light of the above, the Chief Judicial Magistrate, Madurai is requested to dispose of the application in Cr.M.P.No.750 of 2020 as expeditiously as possible after taking note of the decision of the First Bench of this Court.

5.The Writ Petition stands disposed of, accordingly. No costs.

Sd/-

Assistant Registrar (T&P)

// 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.*

Note: Issue copy on 18.06.2021

sj

To

The Chief Judicial Magistrate,
Madurai.

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-19571[F] dated 18/06/2021)

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