



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2021

CORAM :

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

AND

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. (MD) No.815 of 2019

and

W.M.P (MD) Nos.654 and 655 of 2019

WEB COPY

M/s.Sundaram BNP Paribas Home Finance Limited,
formerly known as (Sundaram Home Finance Limited),
No.46, Whites Road,
Chennai - 600 014.
represented by its
Authorised Officer,
R.Shanmugam

.. Petitioner

Vs

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Sub Collector,
Tuticorin District,
Tuticorin.

3.The Tahsildar,
Tuticorin District,
Tuticorin.

4.P.Jebadurai

5.Paulraj

6.P.Jebastin

7.P.Paul Thangam

8.P.Jegan Christopher

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus to call for records relating to the impugned proceedings of the third respondent in Na.Ka.No.A9/1510/2016 Dt:17.06.2016 and quash the same as illegal and for a consequential direction, directing the first respondent to hand over the physical possession of the property, comprised in S.No.513, Plot No.37, Tuticorin Taluk, Meelavittan Village, Tuticorin, within a period that may be stipulated by this Court.

For Petitioner : Mr.M.E.Ilango

For Respondent : Mr.P.Thilakkumar

Government Pleader for R.1 to R.3

Mr.Ka.Ramakrishnan for R.4 to R.8



ORDER

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

The petition is directed against an order dated June 17, 2016 passed by the third respondent Tahsildar following earlier directions issued under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 by the first respondent District Collector.

2. According to the impugned order, the secured asset against which the petitioner herein seeks to proceed is the subject-matter of a decree passed in O.S.No.38 of 2013 by a Civil Court in Thoothukudi. The impugned notice also indicates that the asset is the subject-matter of pending execution proceedings being E.P.No.69/2015 pending before the Principal District Court, Thoothukudi.

3. Notwithstanding the extensive latitude given to secured creditors under the Act of 2002, the wide authority conferred on executive officers under Section 14 thereof to render assistance to a secured creditor to have access to the secured assets or documents pertaining thereto and the exclusion of the Civil Court's jurisdiction in respect of matters covered thereby by virtue of Section 34 of the Act, when there is a subsisting civil order pertaining to a property, however erroneously such order may have been passed, merely because a secured creditor has a claim in respect of the subject-matter of the order or an asset covered by the order, would not imply that the Civil Court's order would evaporate or vanish into thin air. The Writ Court, in exercise of its authority, cannot interdict an order passed by a Civil Court. The remedy for the petitioner is to approach the appropriate Civil Court or carry an appeal or revision from the order which prejudicially affects the petitioner and stands between the petitioning secured creditor and the relevant secured asset.

4. W.P.(MD) No.815 of 2019 is disposed of by leaving the petitioner free to approach the appropriate civil forum as indicated above.

5. W.M.P.(MD) Nos.654 and 655 of 2019 are closed. There will be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

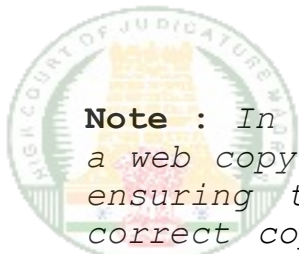
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/ /2021

Sub Assistant Registrar(CS)

MNR/LR

<https://hcservices.ecourts.gov.in/hcservices/>



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.

WEB COPY

To

1.The District Collector,
Tuticorin District,
Tuticorin.

2.The Sub Collector,
Tuticorin District,
Tuticorin.

3.The Tahsildar,
Tuticorin District,
Tuticorin.

+1 CC to M/s.M.E. ILANGO, Advocate (SR-32911[F] dated 27/10/2021)

+1 CC to M/s.SPL.GP (SR-32824[F] dated 27/10/2021)

W.P. (MD) No.815 of 2019

and

W.M.P (MD) Nos.654 and 655 of 2019

26.10.2021

KS (CO)

GC/PM (09.11.2021) 3P 6C