



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2021

CORAM :

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

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P. (MD) No. 17628 of 2021

WEB COPY

The Authorized Officer,
Union Bank of India,
Regional Office,
No.72, P.T.Rajan Road, Narimedu,
B.B.Kulam, Madurai - 625002.

... Petitioner

Vs.

The Chief Judicial Magistrate,
Tuticorin.

... Respondent

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus, by directing the Respondent / Chief Judicial Magistrate, Tuticorin to adhere the Section 14(1) First Proviso (i) to (ix) for admitting and administering the Section 14 petition vide A.No.109 dated 16/03/2021.

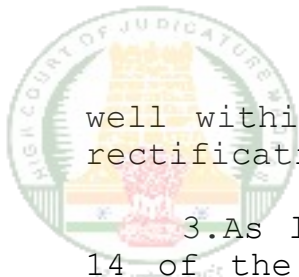
For Petitioner : Mr.VS.Karthi

ORDER

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

The grievance of the petitioner is that the first respondent official, upon receipt of the petitioner's request under Section 14 of the Securitisation & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, has returned the same seeking further documents.

2. There is no doubt that Section 14 of the Act does not call for any adjudication. Under such provision, certain declarations have to be furnished by the secured creditor making the request, whereupon a judicious approach has to be adopted by the official in receipt of the request, first to consider whether the request has been made by an appropriate person and in appropriate circumstances; then, as to the extent of the assistance that is warranted. The declarations, if furnished, should satisfy the relevant official as such official is not required to go into the legality or veracity thereof or issue any notice to the borrowers to ascertain any position. However, if the declarations are not found to be in order or, as in this case the petitioner may not have signed in the affidavit or may not have indicated the age of the deponent, it is



well within the authority of the concerned official to call for a rectification.

3.As long as an official in receipt of a request under Section 14 of the Act is satisfied that the request has been made by a secured creditor, answering to that description in the Act of 2002 and the declarations are in order, the extent of the assistance to be provided will depend on what the impediment to access the secured assets or the papers pertaining thereto may actually be or may have been indicated by the concerned secured creditor.

4.Accordingly, the order dated March 16, 2021, by which the first respondent-Chief Judicial Magistrate of Tuticorin has returned the request is set aside and the petitioner is permitted to file the request afresh upon ensuring that all the declarations as required in the provisions are furnished and the affidavit is in proper form without any blanks being left.

5.The concerned official will do well to dispose of the request as expeditiously as possible, keeping in mind the time-line indicated therefor in Section 14 of the Act itself.

6.In view of the nature of the order sought, no previous notice was required to be issued to the respondent herein.

7.W.P.(MD)No.17628 of 2021 is disposed of.

8.Let the original papers filed here be immediately returned to advocate for the petitioner upon a photocopy thereof being kept behind.

There will be no order as to costs.

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

The Chief Judicial Magistrate,
Tuticorin.

WEB COPY

Copy to:

The Section Officer,
ER Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.V.S.KARTHI ASSOCIATES, Advocate (SR-30677[F] dated
29/09/2021)

W.P. (MD) No. 17628 of 2021
28.09.2021

_RS (05.10.2021) 3P 5C