



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P(MD)Nos.22818 and 22819 of 2021

and W.M.P. (MD) Nos.19290 and 19291 of 2021

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M/s.Shanmuganathan Cold Storage Private Limited,
Rep. by its Director Mr.Ramkumar,
S.F.No.208, Pudukottai Main Road,
Mathur Village, Kulathur, Pudukottai. ... Petitioner in both W.Ps.

Vs.

1.The Authorised Officer,
Karnataka Bank Ltd.,
Assets Recovery Management Branch,
No.324, Ground Floor,
Thambu Chetty Street,
Chennai - 600 001.

2.The Chief Judicial Magistrate,
Pudukottai. ... Respondents in both W.Ps.

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 2nd respondent to hear the objections of the petitioner with respect to the various commodities stored by the various farmer licensees in Crl.M.P.474 and 475 of 2021 respectively and thereafter pass an order on merits.

For Petitioner in both : Ms.Ananda Gomathy Murugesan
the Writ Petitions

For 1st Respondent in : Mr.N.S.Karthikeyan
both the Writ Petitions Standing Counsel



COMMON ORDER

(Order of the Court was made by PUSHPA SATHYANARAYANA, J.)

These Writ Petitions are filed seeking for a direction upon the 2nd respondent to hear the objections of the petitioner with respect to the various commodities stored by the various farmer licensees in CrI.M.P.474 and 475 of 2021.

2.Heard Ms.Anantha Gomathy Murugesan, learned counsel appearing for the petitioner and Mr.N.S.Karthikeyan, learned Standing Counsel, who accepts notice on behalf of the first respondent.

3.By consent of both sides, this Writ Petition itself is taken up for final disposal at the time of admission.

4.The petitioner is the borrower and is running a Cold Storage Private Limited. The only question that arises for consideration is whether the petitioner should be given a chance of hearing by the Chief Judicial Magistrate before passing orders in the application filed under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. According to the learned counsel for the petitioner, since the petitioner is running the Cold Storage and many of the beneficiaries are using the facilities, they should be heard.

5.This Court is unable to accept the said contention made by the learned counsel for the petitioner. Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, is only an enabling provision to enable the lender to get possession with the help of the Police or the Advocate Commissioner, who is appointed in this regard.

6.In ***W.P.No.34527 of 2019 (M/s.Techno Builders v. M/s.Canara Bank)***, a Division Bench of this Court vide order dated 16.12.2019, has held that the borrower has got no right of hearing in the application filed under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The relevant portion is extracted hereunder:

"6. In the considered opinion of this Court, Section 14 of the SARFAESI Act did not contemplate any notice of hearing / objection from the Borrowers and as such there may not be any necessity of affording opportunity of personal hearing to the Borrowers / petitioners and that apart though it is the claim of the petitioner that the appeal is pending against recovery proceedings, there is no interim order in operation and in the absence of the same, it is always open to the 2nd respondent to proceed further in accordance with law while dealing with the application filed under Section 14 of the SARFAESI Act by the 1st respondent."



7. In the light of the above decision also, which is binding on us, we do not incline to entertain these Writ Petitions. Accordingly, these Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

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Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sj

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,
Pudukottai.

+2 CC to M/s.N.S.KARTHIKEYAN, Advocate (SR-40406,SR-40405[F] dated 27/12/2021)

W.P(MD)Nos.22818 and 22819 of 2021
22.12.2021

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