



W.P.No.13707 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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M/s. IIFL Home Finance Limited
Formerly known as M/s.India Infoline Housing
Finance Limited
At No 12A-10, 13th Floor, Parinee Crescenzo,
C-38 and C-39, G Block, Behind MCA
BandraKurla Complex, Bandra East
Mumbai-400 051
And its Branch office at
Old No.41, New No.76, Block – I, 3rd Floor,
C I T Nagar West, Nandhanam,
Chennai – 600 035
Through its Authorized Officer
S.Rajagopal

.. Petitioner

Vs

1.The Registrar General,
High Court of Madras,
Chennai.

2.Arul P
3.V.Akash Nagpal
4.Krishnamoorthi
5.Vasanthi S



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- 6.Krishnan Ayyanar
- 7.Krishnaveni G
- 8.Murugan K
- 9.Vanitha B
- 10.Saravanan K
- 11.Balaji S
- 12.Sathyanarayanan G
- 13.Kannan M
- 14.Manoj S
- 15.Pavazhan G
- 16.Richardson S
- 17.Vijya Anand

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing respondent No.1 to issue guidelines/instructions to all the Subordinate Courts falling within the jurisdiction of this High Court to abide by the time frame granted in the statute by way of Amendment 44 of 2016 under clause (ix) of sub-section (1) of Section 14 of the SARFAESI Act while dealing and deciding the applications filed under Section 14 of the SARFAESI Act by financial institution such as the petitioner, further directions be issued to the Lower Courts below through respondent No.1 to expeditiously dispose of the pending petitions filed by the petitioner under Section 14 of the SARFAESI Act by passing appropriate orders as per the provisions of law.

For the Petitioner : Mr.V.Balasubramani

For the Respondents : Mr.Karthik Ranganathan
for respondent No.1



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ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

IIFL Home Finance Limited, represented by its Authorised Officer, has filed this writ petition seeking issuance of a writ of mandamus to direct the first respondent to issue guidelines/ instructions to all the Subordinate Courts falling within the jurisdiction of this High Court to abide by the time frame granted in the statute by way of Amendment 44 of 2016 under clause (ix) of sub-section (1) of Section 14 of the SARFAESI Act while dealing and deciding the applications filed under Section 14 of the SARFAESI Act by the financial institutions such as the petitioner, and to issue further directions to the Subordinate Courts through the first respondent to expeditiously dispose of the pending petitions filed by the petitioner under Section 14 of the SARFAESI Act by passing appropriate orders as per the provisions of law.

2. At the outset, it needs to be noted that the Apex Court in ***C.Bright v. the District Collector and others, (2021) 2 SCC 392***, considering the issue as to whether the time-limit stipulated



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under Section 14 of the Act is mandatory or directory, emphatically held that time-limit prescribed is directory and not mandatory. The relevant portion of the said judgment is reproduced hereunder:

"21. The Act was enacted to provide a machinery for empowering banks and financial institutions, so that they may have the power to take possession of secured assets and to sell them. The DRT Act was first enacted to streamline the recovery of public dues but the proceedings under the said Act have not given desirous results. Therefore, the Act in question was enacted. This Court in Mardia Chemicals v. Union of India, (2004) 4 SCC 311, Transcore v. Union of India, (2008) 1 SCC 125 and Hindon Forge (P) Ltd. v. State of UP, (2019) 2 SCC 198, has held that the purpose of the Act pertains to the speedy recovery of dues, by banks and financial institutions. The true intention of the legislature is a determining factor herein. Keeping the objective of the Act in mind, the time-limit to take action by the District Magistrate has been fixed to impress upon the authority to take possession of the secured assets. However, inability to take possession within time-limit does not render the District Magistrate functus officio. The secured creditor has no control over the District Magistrate who is exercising jurisdiction under Section 14 of the Act for public good.



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to facilitate recovery of public dues. Therefore, Section 14 of the Act is not to be interpreted literally without considering the object and purpose of the Act. If any other interpretation is placed upon the language of Section 14, it would be contrary to the purpose of the Act. The time-limit is to instil a confidence in creditors that the District Magistrate will make an attempt to deliver possession as well as to impose a duty on the District Magistrate to make an earnest effort to comply with the mandate of the statute to deliver the possession within 30 days and for reasons to be recorded within 60 days. **In this light, the remedy under Section 14 of the Act is not rendered redundant if the District Magistrate is unable to handover the possession.** The District Magistrate will still be enjoined upon, the duty to facilitate delivery of possession at the earliest."

3. In view of the ratio enunciated by the Apex Court in **C.Bright**, supra, it is explicitly clear that the time limit stipulated in Section 14 of the Act is directory and not mandatory. The said proposition is squarely applicable to the Chief Judicial Magistrates exercising the power under Section 14 of the Act.



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4. In view of the statutory prescription and the proposition laid down by the Supreme Court in **C.Bright**, supra, no further order in the nature of an omnibus direction, as prayed for by the petitioner, need be passed in this writ petition. If in any independent case there is an undue delay in consideration of the application under Section 14 of the Act, then the secured creditor can always approach this court seeking expeditious disposal, if so advised.

The writ petition is disposed of accordingly. There will be no order as to costs.

(T.R., ACJ.) (D.B.C., J.)
28.04.2023

Index : No
Neutral Citation : No
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To:

The Registrar General,
High Court of Madras,
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THE HON'BLE ACTING CHIEF JUSTICE
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D.BHARATHA CHAKRAVARTHY, J.

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