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WP No. 28049 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition No.28049 of 2019

HDB Financial Services Limited
Having its Reg. Office at:
Radhika, 2nd floor, Law Garden Road
Navrangpura, Ahmedabad - 380 009

Branch Office, 4th Floor
Loyal Towers, #68/2, Greaves Road
Chennai - 600 006
Rep.by its Authorised Officer

.. Petitioner

Versus

The District Collector /
The District Magistrate
Thiruvallur Collectorate
Thiruvallur District

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to pass orders on the Petition filed on 28.07.2018 under Section 14(1) of SARFAESI Act, within the time to be stipulated by this Court.

For Petitioner	:	Mr. M. Ajmal Azzath
For Respondent	:	Mr. G. Nanmaran, Special Government Pleader



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ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

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This writ petition has been filed by the petitioner Bank, seeking to issue a Writ of Mandamus directing the respondent to pass orders on the Petition filed by them on 28.07.2018 under Section 14(1) of 14 of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) Act, within a time to be stipulated by this Court.

2. In the affidavit filed in support of the writ petition, it is stated that the Petitioner is a non-banking financial institution engaged in the business of providing financial assistance against immovable property offered as security. It is further stated that during the course of their business, M/s. VRC Infrastructure availed loan of Rs.1,41,80,856/- and created equitable mortgage of the property standing in their name. After availing loan, the borrower committed default and the loan account was classified as Non-Performing Assets (NPA) on 03.09.2017 and inspite of repeated demands, the borrower failed to regularise the loan account. Therefore, the petitioner bank issued a notice dated 12.10.2017 under Section 13 (2) of the SARFAESI Act and called upon the borrower to repay the outstanding loan amount of Rs.1,32,25,119/- as on 12.09.2017. However, the borrower did not respond, therefore, notice



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under Section 13 (4) of the said Act was issued on 18.01.2018. Thereafter, it is claimed that the petitioner bank has taken symbolic possession of the secured asset. However, in order to take physical possession of the property in question, the petitioner bank submitted an application under Section 14 (1) of the SARFAESI Act on 28.07.2018 to the respondent, but so far, no order has been passed thereon, hence, the present writ petition.

3. The learned counsel for the petitioner submitted that the respondent is the competent authority, as defined under Section 14 of the SARFAESI Act. The borrower has committed default in payment of loan amount and therefore, the petitioner bank, after complying with all the formalities, has submitted the application under Section 14 of the Act. The respondent, on receipt of such application, has to satisfy himself that all the statutory compliance has been made before passing further orders thereof. Unless such an order is passed by the respondent, the Petitioner Bank cannot take physical possession of the property and realise the loan amount by resorting to auction sale. The learned counsel for the petitioner therefore prayed for issuing appropriate direction to the respondent to pass orders on the application dated 28.07.2018 submitted by the petitioner bank expeditiously.



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4. The learned Special Government Pleader appearing for the respondent submitted that the petition dated 28.07.2018 submitted by the Petitioner Bank will be considered by the respondent, if not considered earlier and appropriate orders will be passed thereof, within a time that may be stipulated by this Court.

5. Having regard to the above submissions made on behalf of the counsel for both sides, this Court, without going into the merits of the case, directs the respondent to consider the petition dated 28.07.2018, submitted by the petitioner bank under Section 14 of the SARFAESI Act, if not considered earlier, and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing to the petitioner and other parties concerned, within a period of six weeks from the date of receipt of a copy of this order.

6. With the aforesaid direction, this writ petition stands disposed of.
No costs.

[R.M.D., J]

[M.S.Q., J]

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Index : Yes / No

Internet : Yes / No

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To

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The District Collector /
The District Magistrate,
Thiruvallur Collectorate,
Thiruvallur District.



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R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

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