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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.08.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P(MD)NO.19591 OF 2023
and
W.M.P(MD)No.16184 of 2023**

S.Dineshkannan

:Petitioner

.VS.

The Authorized Officer,
M/s.National Trust Housing Finance Limited,
Third Floor,City Tower,
No.7, Third Cross Street,
Kasturibai Nagar,
Adayar, Chennai – 600 020.

: Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in Cr.M.P.No.426 of 2022, dated 16.5.2022, on the file of the learned Chief Judicial Magistrate, Madurai and to quash the same as illegal and consequently to direct the respondent to open the seal of the door and forbear the respondent from in any way disposesssing the Petitioner from the residential house building in D.NO.35/1 to an extent of 537 sq.ft of property situated in south side in T.S.No. 1941/3, C.C.Road, Kaja Street, South Side, South Veli Street, Now



Corporation Ward No.42, Survey Ward No.4, Madurai Town, Madurai
Joint 4 Sub-Registration District, Madurai South Registration District,
Madurai District.

For Petitioner :Mr.S.Pugalendhi

For Respondent :Mr.S.Babu

O R D E R

(Order of the Court was made by S.S.SUNDAR,J)

This Writ Petition is filed challenging the order of the learned Chief Judicial Magistrate, Madurai in Cr.M.P.No.426 of 2022, dated 16.5.2022.

2.Mr.S.Babu, learned counsel takes notice for the respondent.By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The Petitioner is a borrower whose liability to the respondent-Bank is not in dispute. Though the Petitioner states that he is not a chronic defaulter and the amount payable by the Petitioner towards the discharge of the entire loan is around Rs.13 lakhs, the learned counsel for the respondent-Bank states that the total liability as on date is more than Rs.13 lakhs. The Petitioner



admitted that he has not paid any amount, despite the fact that the possession of the property in question is taken pursuant to the order of the learned Chief Judicial Magistrate. The Petitioner has earlier approached the Debts Recovery Tribunal, Madurai against the order taking symbolic possession in S.A.No.39 of 2022.

4.The learned counsel for the respondent-Bank states that the Petitioner did not respond to the respondent-Bank whenever the bank approached the Petitioner for recovery of some amount out of the total liability.

5.In the said circumstances, this Court is not inclined to entertain the present Writ Petition, in view of the availability of efficacious alternative remedy. Therefore, it is open to the Petitioner to approach the Debts Recovery Tribunal, for appropriate relief challenging the impugned order in the S.A.No.39 of 2022 or by way of filing separate application. It is also open to the Petitioner to approach the respondent-Bank either for One Time Settlement or for waiver of interest or for concession, as may be permissible, under the Reserve Bank of India Guidelines within one week from the date of receipt of copy of this order. When such a representation is



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submitted by the Petitioner, the same shall be considered by the respondent/Bank on merits and in accordance with law as per the Reserve Bank Guidelines or norms and the decision taken on the said representation shall be communicated to the Petitioner. Till such time, the respondent-Bank shall not initiate action for the sale of the property in question of the Petitioner.

6. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R.,J.] [D.B.C,J.]
11.08.2023

Index: Yes/No
Internet: Yes/No
NCC: Yes/No

vsn



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S.S.SUNDAR, J.

AND

D.BHARATHA CHAKRAVARTHY, J.

vsn

ORDER MADE IN

W.P(MD)NO.19591 OF 2023

and

W.M.P(MD)No.16184 of 2023

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