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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 26.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM  
AND  
THE HONOURABLE Mrs.JUSTICE R.THARANI

Writ Petition (MD).No.1202 of 2018  
and  
W.M.P. (MD) Nos.1281 and 1282 of 2018

1.C.Malathi

2.T.Sindupriya

3.P.Thavamurugan

... Petitioners

Vs.

1.The District Collector cum Magistrate,  
Collector Office,  
Theni.

2.The Authorized Officer,  
AGM and Regional Head,  
Federal Bank,  
Regional Office Building,  
No.137/93, North West Corner,  
Madurai Citi Centre,  
Kamarajar Salai,  
Madurai.

3.The Branch Manager,  
Federal Bank,  
No.176/10, APK Complex,  
Cumbum Main Road,  
Chinnamanur,  
Theni District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, praying for issuance of a Writ of Certiorari, to call for the records of the second respondent pertaining to the demand notice in CNM/SARFAESI/2016 daed 10.02.2016 and the possession notice in CM/Malathy/2016 dated 02.05.2016 and quash the same.

For Petitioners  
For Respondent No.1

: Mr.K.P.S.Palanivel Rajan  
: Mr.D.Muruganantham  
Additional Government Pleader  
: Mr.R.Pandivel

ORDER

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

Heard Mr.K.P.S.Palanivel Rajan, learned counsel appearing for the petitioners, Mr.D.Muruganantham, learned Additional Government Pleader appearing for the first respondent and Mr.R.Pandivel, learned counsel appearing for the respondents 2 and 3.

2.The petitioner has filed the writ petition, challenging the demand notice issued in the year 2016 which is a notice under Section 13(2) of the SARFAESI Act, 2002. It is settled legal position that the writ petition is not a remedy and the petitioner cannot challenge the notice issued under Section 13(2) of the Act, more particularly, on the grounds raised.

3.Though we would have been well justified in dismissing the writ petition, the learned counsel appearing for the petitioner pleaded that on account of deficit circumstances and drought condition, the petitioner has become defictor and there is no intention not to pay the loan amount. Mr.P.Thavamurugan, the third petitioner is present in the Court. We heard him. He would state that he genuinely wants to settle the loan and does not want waiver of interest or other charges but requests extension of time to settle the arrears. The third petitioner would further state that the value of the property, which has been marked in favour of the bank is more than sufficient to secure the interest of the respondent Bank.

4.The learned counsel appearing for the respondent Bank would state that the writ petition is not maintainable and as on date the arrear due payable is more than Rs.52,00,000/- (Rupees Fifty Two Lakhs only).

5.Considering the fact that the respondent Bank has not initiated further action pursuant to the notice issued under Section 13(2) of the Act on 10.02.2016, which indicates that the respondent Bank is of the prima facie view that the petitioner would be in a position to liquidate the dues, and to test the bonafide, the petitioners are directed to pay a sum of Rs.7,00,000/- (Rupees Seven Lakhs only) on or before 31.03.2018 directly to the third respondent. If the petitioners comply with the said condition, the petitioners are permitted to give a representation to the respondent Bank indicating the time within which they would liquidate the dues and they are willing to keep additional immovable property as security. In case, if the condition is complied with and if the representation is given, the respondent Bank shall consider it in accordance with the regulation. If Something fruitful turns out from the aforesaid proposal, the respondent may put an end to the matter, failing which, it is open to the respondent Bank to proceed further in accordance with the provisions of the SARFAESI Act.



6. With the above direction, the writ petition stands disposed of. No Costs. Consequently, W.M.P. (MD) Nos. 1281 and 1282 of 2018 are closed.

Sd/-

Assistant Registrar (RTI)

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/True Copy/

Sub Assistant Registrar

To

1. The District Collector cum Magistrate,  
Collector Office,  
Theni.

+1cc to M/S.K.P.S. Palanivel Rajan, Advocate SR.No. 58352

+1cc to M/S.R. Pandivel, Advocate SR.No. 57876

+1cc to Special Government Pleader, SR.No. 58456

Writ Petition (MD).No.1202 of 2018  
26.03.2018

mrn

JM/SKN RSK/SAR 1/27.03.2018/3P/5C