BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)No.730 of 2018
and
W.M.P.(MD)Nos.817 and 818 of 2018

K.Fathima Beevi .. Petitioner

Vs.

Authorized Officer,
State Bank of India,
RASMECCC,
Zonal Office,
No.2, Ambedkar Road,
Madurai-625 002. .. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records pertaining to the alleged impugned order of Demand notice under Section 13(2) dated 06.05.2016 and the Possession Notice dated 06.10.2017 issued under Section 13(4) SARFEASI Act, 2002, read with Rule (1) of SARFEASI Rule and the consequential impugned E-auction sale notice dated 02.01.2018 of the proposed sale on 09.02.2018 under SARFASI Act issued by the Respondent and quash the same as illegal.

For Petitioner : Mr.N.Sivasubramani
For Respondent : Mr.S.Sethuraman

ORDER

[Order of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.N.Sivasubramani, learned counsel appearing for the petitioner and Mr.S.Sethuraman, learned counsel, appearing for the respondent.

2.The Petitioner has impugned the possession notice issued under Section 13(4) of the SARFASI Act and the consequential notice for sale of a property offered by the petitioner as Security for the loan borrowed by her.

3.When the matter was taken up for admission, considering the loan amount as not very huge, the petitioner offered to pay Rs.1,00,000/- within a time frame and assured that a sum of Rs.50,000/- would be paid on or before 05.02.2018.

4.The learned counsel appearing for the petitioner has filed a memo dated 05.02.2018 stating that a sum of Rs.40,000/- was transferred from the account of S.Kaleeur Rahman, the husband of the petitioner, to the credit of State Bank of India loan account standing in the name of the petitioner bearing No.30204982049 on 02.02.2018. That apart a sum of Rs.10,000/- was paid in cash on the very same day.

5.The learned counsel appearing for the respondent Bank submitted that it is true that the petitioner has effected payments and regularly. Under normal circumstances, we would have dismissed the writ petition filed challenging an order under Section 13(4) of the SARFEASI Act on the ground that the petitioner has an appeal remedy under the Act.

6.However, considering the fact that the petitioner wants to regularize the loan account, we direct the respondent Bank not to take further action pursuant to the impugned notice, giving liberty to take fresh action in the event of persistent default by the petitioner.

7.Accordingly, this Writ Petition is allowed with the above direction. No costs. Consequently, W.M.P.(MD)Nos.817 and 818 of 2018 are closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

\+ 1 CC TO Mr.S.SETHURAMAN, ADVOCATE IN SR No. 52464

TA
TE/KKR/SAR-4 : 16/03/2018 : 2P/2C

ORDER MADE IN
W.P(MD)No.730 of 2018 and
W.M.P.(MD)Nos.817 and 818 of 2018
02.03.2018