



WEB COPY

W.P.(MD)No.7094 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.07.2020**

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD)No.7094 of 2020

and

W.M.P. (MD)Nos.6533 and 6535 of 2020

(Through Video conferencing)

D.Poyyali

...Petitioner

-Vs-

The Chief Manager
Indian Bank
64, 1st Floor, Beach Road
Thoothukudi.

...Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent bank in vide proceeding No.IB/TUT/RECY/27/2020-21 dated 12.06.2020 and quash the same as illegal and consequently direct the respondent bank to permit the petitioner to settle all the loans by making Rs.36.00 lakhs as one time settlement and pass such further or other orders.

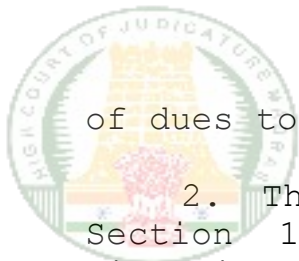
For Petitioner : Mr.K.P.Thiyagarajan

For Respondent : Mr.Jayesh B.Dolia

ORDER

[Order of the Court was made by **M. SATHYANARAYANAN, J.,]**

The petitioner is a Proprietor of M/s.Shree Vinayaga Transport at Thoothukudi and availed the loan facilities in connection with the said business and according to the petitioner, the transport business are mostly depended upon taking quarried materials from the quarry and on account of the complete ban imposed by the Government of Tamil Nadu, his businesses activity came to a stand still and as a result of the same, there was a default in payment



of dues to the respondent bank.

2. The petitioner was issued with a demand notice under Section 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), dated 09.01.2019, demanding a sum of Rs.96,49,076/- (Rupees Ninety Six Lakhs Forty Nine Thousand and Seventy Six only) together with interest, for which, he has also submitted his response dated 12.12.2019, pleading his difficulty faced on account of the said ban. The respondent bank has issued a possession notice dated 22.01.2020 and brought the secured assets for sale and recovery, for which, also the petitioner submitted his response dated 11.06.2020. However, the respondent bank was not satisfied with the response. The petitioner, in the meanwhile, has also submitted a One Time Settlement proposal and it was also negatived by the respondent bank, vide communication dated 12.06.2020 and challenging the legality of the same, the present writ petition is filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner with great difficulty made a substantial payment and if some breathing time is given, he would make all endeavour to settle the amount and regulate all the problems faced by him.

4. Per contra, Mr.Jayesh B Dolia, learned Standing Counsel would submit that the petitioner, as on date, is due and payable for more than Rs.1.04 crore and if the petitioner comes out with any reasonable settlement proposal to the satisfaction of the respondent bank, they would definitely consider, as they are interested in getting back the loan amount as the earliest possible time.

5. This Court has considered the rival submissions and also perused the materials placed before it.

6. It is a well settled position of law that this Court cannot issue any positive direction to a financial institution to positively consider the One Time Settlement proposal, unless the non consideration is in infraction of RBI or other guidelines.

7. However, this Court, taking into consideration the facts and the difficulties pleaded by the petitioner, grants liberty to the petitioner to approach the respondent bank with a comprehensive settlement proposal and upon receipt of the same, the respondent bank is directed to consider the same and pass appropriate orders, as expeditiously as possible.



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8. This Writ Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

vsm

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Chief Manager
Indian Bank
64, 1st Floor, Beach Road
Thoothukudi.

Order made in

W.P. (MD)No.7094 of 2020

and W.M.P. (MD)Nos.6533 and 6535 of 2020

29.07.2020

 KM (06.08.2020) 3P 2C