



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.12.2020

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**THE HON'BLE Mr. JUSTICE N.KIRUBAKARAN
AND
THE HON'BLE Mr. JUSTICE B.PUGALENDHI**

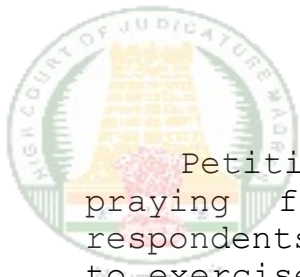
W.P. (MD)No.15993 of 2020
and
W.M.P. (MD)No.13401 of 2020

Mary Juliet Irene

.. Petitioner

Vs.

- 1.The Union of India,
Rep. by its Secretary to Government,
Ministry of Finance, Jeevan Deep Building,
Parliament Street, New Delhi - 1.
 - 2.Reserve Bank of India,
Rep. by its Assistant General Manager,
Main Building, Post Box No.901,
Sahid Bhagatsingh Road, Mumbai - 400 001.
 - 3.Reserve Bank of India,
Rep. by its Deputy General Manager,
Fort Clacis, No.16, Rajaji Salai,
Chennai - 01.
 - 4.The Authorized Officer (Chief Manager),
South Indian Bank Ltd., Regional Office,
1st Floor, YMCA Building, Opp. Astoria Hotels,
70 Feet Road, Elis Nagar, Madurai - 620 016.
 - 5.The Senior Manager,
South Indian Bank Ltd.,
Nagercoil Branch, Ground Floor,
Popular Building, Mead Street, WCC College Road,
Nagercoil, Kanyakumari District - 629 001.
 - 6.The District Collector,
District Magistrate, Nagercoil,
Kanyakumari District - 629 001.
 - 7.The Tahsildar,
Agasteeswaram Taluk,
Kanyakumari District.
- .. Respondents



Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 herein to instruct the respondents 4 and 5 herein to exercise their discretionary power of considering OTS proposal of the petitioner, dated 05.09.2019, in a fair and reasonable manner as well as charging the rate of interest and penal interest and consequently, forbear the respondents 4 and 5 from further proceed with the issuance of Tender-cum-Auction Sale Notice as contemplated under Rule 8 of the Security Interest [Enforcement] Rules, 2002 framed under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, in respect of the secured assets property of the petitioner, bearing New Survey No.695/13, to an extent of 13.750 cents, situated at Thamaraikulam Village, Agateeswaram Taluk, Kanyakumari District, before finalizing the OTS Proposal amount.

For Petitioner : Mr.S.Venkatesan
For R1 : Mrs.L.Victoria Gowri
Assistant Solicitor General of India
For R4 and R5 : Mr.R.Pandivel
For R6 and R7 : Mr.R.Murugan
Additional Government Pleader

ORDER

(Order of the Court was made by N.KIRUBAKARAN, J.)

The petitioner availed loan from the fourth respondent Bank and the loan account was classified as Non-Performing Asset [NPA] on 31.12.2012. Thereafter, SARFAESI Proceedings were initiated. On 28.02.2014, symbolic possession notice was given under Section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Thereafter, on 20.06.2018 the petitioner sent a proposal for One Time Settlement [in short 'OTS']. The fourth respondent Bank declined to accept the OTS Proposal for Rs.28 Lakhs. Thereafter, on 05.09.2019, the petitioner sent further OTS Proposal to the tune of Rs.35 Lakhs. Without accepting the said OTS Proposal, auction sale notice, dated 18.02.2020, was issued fixing the auction on 27.03.2020. Thereafter, the seventh respondent locked the secured assets property. Therefore, after giving representation on 01.10.2020 for OTS Proposal, the petitioner has approached this Court.

2.When the matter was called earlier, this Court directed the petitioner to sort out the problem with the fourth respondent Bank. With the active help of Mr.R.Pandivel, learned Standing Counsel appearing for the respondents 4 and 5 / Bank, the matter is said to



have been settled for a sum of Rs.50 Lakhs as One Time Settlement. By way of OTS, the petitioner shall pay a sum of Rs.25 Lakhs on or before 31.12.2020 and the balance amount of Rs.25 Lakhs on or before 31.01.2021.

3.Heard the learned counsel appearing for the parties and perused the materials available on record.

4.Though the learned counsel appearing for the petitioner would submit that the petitioner would pay Rs.25 Lakhs on or before 31.12.2020, for the second payment, he seeks time limit upto the end of February 2021. However, Mr.R.Pandivel, learned counsel appearing for the respondents 4 and 5/Bank, is not agreeable for the same.

5.Since the loan amount has not been settled for a long time and taking into consideration the fact that the parties have arrived at One Time Settlement for a sum of Rs.50 Lakhs, it is appropriate to direct the fourth respondent Bank to receive Rs.25 Lakhs on or before 31.12.2020 and the balance amount of Rs.25 Lakhs on or before 15.02.2021 instead of 31.01.2021. Therefore, the petitioner is directed to pay Rs.25 Lakhs as first installment on 31.12.2020 and the balance amount of Rs.25 Lakhs on or before 15.02.2021. If there is any default in the payment, the same will disentitle the benefit arrived at by way of One Time Settlement and the fourth respondent Bank is at liberty to proceed further.

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

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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

1.The Secretary to Government,
Union of India, Ministry of Finance,
Jeevan Deep Building, Parliament Street,
New Delhi - 1.

<https://hcservices.ecourts.gov.in/hcservices/>



- 2.The Assistant General Manager,
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- 3.The Deputy General Manager,
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W.P. (MD) No.15993 of 2020
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MJ(CO)
TR(23.12.2020) 4P 8C