



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE **S. VAIDYANATHAN**

W.P. (MD)No.13298 of 2018

M.Devendran

... Petitioner

-vs-

1.The Regional Manager,
Tamil Nadu Mercantile Bank Limited,
Regional Office,
No.149, Maj Apartments, Bharathiyar Salai,
Shanmugapuram, Thoothukudi - 609 602.

2.The Branch Manager,
Tamil Nadu Mercantile Bank Limited,
Thoothukudi SME Branch,
Bryant Nagar, 7th Middle Street,
Thoothukudi - 8.

3.M/s.SMA Resolutions Services Private Limited,
No.19, Elim Street, STC College Opposite Road,
Perumalpuram, Tirunelveli - 627 007.

4.The Deputy Superintendent of Police,
Tuticorin Town, Office No.1,
Bryant Nagar, 10th Street,
Tuticorin - 8.

... Respondents

(R4 is *suo motu* impleaded vide Court order dated 26.11.2020 made in W.P.(MD)No.13298 of 2018 by SVNJ)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 and 2 to reschedule the vehicle loans of the petitioners bearing Loan Account Nos.430700460100036, 430700460100043, 430700460100065.

For Petitioner	: Mr.G.Prabhu Rajadurai
For Respondents	: Mr.N.Dilip Kumar
1 and 2	Standing Counsel
For Respondent 4	: Mr.K.P.Krishnadoss
	Special Government Pleader

**ORDER**

This writ petition is filed, seeking issuance of a Writ of Mandamus to direct the respondents 1 and 2 to reschedule the vehicle loans of the petitioners bearing Loan Account Nos.430700460100036, 430700460100043, 430700460100065.

2.Heard the learned Counsel appearing for the petitioner, Mr.N.Dilip Kumar, learned Standing Counsel appearing for the respondents 1 and 2 and Mr.K.P.Krishnadoss, learned Special Government Pleader appearing for the respondents.

3.It is represented by the learned counsel appearing for the petitioner that the petitioner is doing transport business in the name and style of "Jeyasree Transport" in Thoothukudi and in order to extend his business, he had purchased a trailer lorry bearing Registration No.TN 69 BB 4621 on 28.02.2016 by availing loan amount of Rs.24,00,000/- from the second respondent bank. Since the petitioner had been paying the dues regularly, the second respondent extended further loan to him for purchase of another lorry and on 28.10.2016, he has purchased the second trailer lorry by availing a sum of Rs.36,00,000/-. Thereafter, on 21.06.2017, the petitioner had purchased the third trailer lorry by availing a sum of Rs.36,00,000/- from the second respondent bank. It is further submitted that though the petitioner had purchased the third trailer lorry on 21.06.2017, the same could be registered in the month of February, 2018 i.e., after a period of eight months and thereafter, he could not pay the principle installment as he had huge loss in the business. However, he could pay only the installment towards interest. In such circumstances, the second respondent has issued proceedings dated 20.05.2018 and 21.05.2018 classifying the three loan accounts as Non Performing Asset (NPA) with effect from 30.04.2018 and further stated that unless the petitioner remits the entire loan amount, the said three lorries will be seized by the third respondent. Therefore, the petitioner has sent a representation on 30.05.2018 requesting them to reschedule the above three loans on payment of Rs.3,00,000/- and on considering the same, the second respondent had sent a communication to the petitioner on 06.06.2018 stating that they will reschedule the loans if the petitioner pays 50% of the dues as on date which is quantified at Rs.14,99,000/-. As the petitioner has suffered a huge loss in transport business and now only coming out of the same, if the three loans are rescheduled, he would be in a position to pay the monthly installments regularly. Therefore, the petitioner has come forward with the present Writ Petition.

4.The learned Counsel appearing for the petitioner has now filed an additional affidavit stating that as the vehicles did not ply for three years, he could not pay money to the second respondent bank. It is further stated that the petitioner shall bring a



potential buyer for purchase of all the three lorries before the second respondent bank within a period of six weeks failing which the respondent bank shall proceed with the seizure of the vehicles.

5.Mr.N.Dilip Kumar, learned Standing Counsel appearing for the respondents 1 and 2 would submit that the respondents 1 and 2 are willing to auction the vehicle and try to fetch maximum price for the vehicles and in case, the petitioner is able to bring any other person, who can buy the vehicle better than the auction price, after adjusting the amount, the balance, if any, would be paid to the petitioner.

6.The petitioner has no objection to that effect and that the second respondent bank shall sell the vehicles to the person who may be brought by the petitioner.

7.Considering the submissions made by the learned Counsel appearing on either side, this Court without going into the merits of the case, directs the petitioner to bring the potential buyer within a period of two weeks from the date of receipt of a copy of this order so that the issue could be given quietus to. In case, the petitioner fails to do, it is open to the second respondent bank to proceed in accordance with law and the respondent bank is given permission to take the vehicles. The petitioner will have to furnish all the records including R.C. book with the bank within a period of one week.

8.With the above directions, the writ petition, is disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

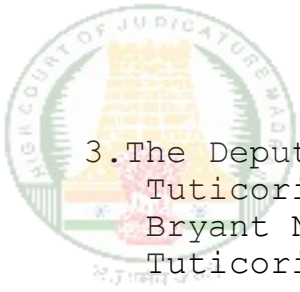
SRM

To

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2.The Branch Manager,
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Bryant Nagar, 7th Middle Street,

<https://hcservices.ecourts.gov.in/hcservices/> 8.



3.The Deputy Superintendent of Police,
Tuticorin Town, Office No.1,
Bryant Nagar, 10th Street,
Tuticorin - 8.

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+1 CC to Mr.G.PRABHU RAJADURAI, Advocate (SR-25979[F] dated 17/12/2020)

+1 CC to SPL GP (SR-26029[F] dated 17/12/2020)

+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-26366[F] dated 18/12/2020)

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16.12.2020

VB (30.12.2020) 4P 7C