



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2021

CORAM:

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND**

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P(MD)No.22311 of 2021

and W.M.P. (MD) Nos.18870 and 18871 of 2021

C.Balamurugan

... Petitioner

Vs.

1.Housing Development Finance Corporation Ltd.,
(HDFC Ltd) .,
Rep. by Authorised Officer,
S.M.Saravanan,
S/o.S.Mariappan,
No.406, Sakthi Sivam Plaza,
Pumping Station Road,
9th Cross Street,
K.K. Nagar (East),
Madurai - 625 020.

2.P.Hemalatha

3.A.Pandiarajan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 24.11.2021 made in Crl.M.P.No.831 of 2021 on the file of the Chief Judicial Magistrate, Madurai and quash the same and directing the Respondents 1 to 3 to refrain from evicting the petitioner and his family from the Door No.3, 3rd Main Road, Subramaniapuram, Madurai on the basis of the said impugned order without following the due process of law.

For Petitioner

: Mrs.Porkodi Karnan

For M/S. Polax Legal Solutions.

For Respondent No.1

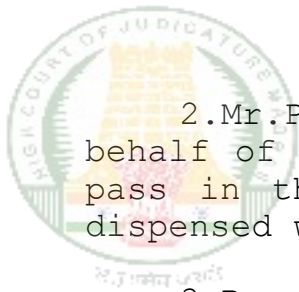
: Mr.Pala Ramasamy

Standing Counsel

O R D E R

(Order of the Court was made by PUSHPA SATHYANARAYANA,J.)

The Writ Petition is directed against the the order of the learned Chief Judicial Magistrate, Madurai, passed in Crl.M.P.No.831 of 2021, dated 24.11.2021, under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.



2.Mr.Pala Ramasamy, learned Standing Counsel, accepts notice on behalf of the first respondent. In view of the order we propose to pass in the Writ Petition, notice to respondent Nos.2 and 3 are dispensed with.

3.By consent of both sides, the Writ Petition itself is taken up for final hearing at the time of admission.

4.The writ petitioner is a tenant in the premises and not a party to the said proceedings. According to the learned Standing Counsel for the first respondent Bank, the original owners have already abandoned the premises and when the Bank attempted to take possession of the property, the writ petitioner has sought two days time for vacating the premises. However, the learned counsel for petitioner represents that the petitioner requires six weeks time to vacate the premises.

5.Though it is settled that interest of tenant cannot be taken into account by the Bank, considering the plight of the petitioner and that he seeks six weeks time to vacate and handover possession, this Court is inclined to grant the time sought for by the petitioner, subject to the condition that the petitioner should file an affidavit of undertaking before this Court within a week.

6.Accordingly, the petitioner is granted six weeks time from today to vacate and hand over possession of the premises to the Bank on condition that the petitioner should file an affidavit of undertaking before this Court, within one week from the date of receipt of a copy of this order, to vacate the premises within six weeks from today, failing which, this order stands vacated automatically without further reference to this Court.

7.The Writ Petition stands disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

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

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



To

1. Authorised Officer,
Housing Development Finance Corporation Ltd.,
(HDFC Ltd).,
S.M.Saravanan,
S/o.S.Mariappan,
No.406, Sakthi Sivam Plaza,
Pumping Station Road,
9th Cross Street,
K.K. Nagar (East),
Madurai - 625 020.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-38896[F] dated 15/12/2021)

W.P(MD)No.22311 of 2021
15.12.2021

MGJ(28.12.2021) 3P 3C