



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P(MD)No.22828 of 2021
and W.M.P. (MD) No.19301 of 2021

M.Kayalvizhi

... Petitioner

Vs.

1.The Authorised Officer,
Housing Development Finance Corporation Ltd., (HDFC Ltd.),
K.K. Nagar, Madurai - 20.

2.The Manager,
Housing Development Finance Corporation Ltd., (HDFC Ltd.),
No.7A, West Veli Street,
Madurai - 1.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records from the respondents regarding possession notice issued in loan No:638192776 and loan No.638193100 to the petitioner as per SARFAESI Act and consequent order of the C.R.M.P.No.815/2021 by the Chief Judicial Magistrate Court, Madurai, dated 23.11.2021 and quash the same.

For Petitioner : Mr.R.Ramasamy

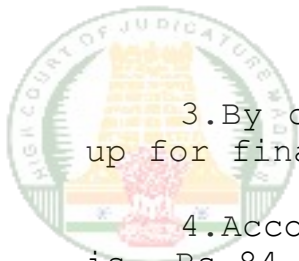
For Respondents : Mr.Pala Ramasamy
Standing Counsel

O R D E R

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

The Writ Petition is directed against the possession notice, which was ordered on 23.11.2021, passed in Cr.M.P.No.815 of 2021, by the Chief Judicial Magistrate, Madurai, under Section 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2.Heard Mr.R.Ramasamy, learned counsel for the petitioner and Mr.Pala Ramasamy, learned Standing Counsel, who accepts notice on behalf of the respondents.



3.By consent of both sides, this Writ Petition itself is taken up for final disposal.

4.According to the petitioner/borrower the outstanding amount is Rs.84,00,000/- (Rupees Eightyfour Lakhs only). Since the property, which is sought to be taken possession is a residential one, she seeks indulgence of this Court.

5.Admittedly, the petitioner has not preferred any appeal before the Debts Recovery Tribunal. The petitioner offers to deposit Rs.20,00,000/- (Rupees Twenty Lakhs only) on or before 30th January, 2022. The learned Standing Counsel for the respondents is agreeable for the same.

5.The learned counsel for the petitioner would submit that the petitioner would somehow mobilize funds and settle the Bank and save her property.

6.Though the Writ Petition is not maintainable, in view of the fact that there is no Presiding Officer at the Debts Recovery Tribunal, Madurai, and the petitioner is short of time to file appeal before the Debts Recovery Tribunal, Coimbatore we have taken up the matter and the following order is passed:-

i.The impugned order, dated 23.11.2021, passed in Cr.M.P.No.815 of 2021, by the Chief Judicial Magistrate, Madurai is set aside, on condition that the petitioner should deposit a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) before the respondent bank on or before 30.01.2022, failing which, the interim order granted shall stand vacated automatically without further reference to this Court and it is open to the respondents to revive the order of the Chief Judicial Magistrate, Madurai, dated 23.11.2021, and take possession.

ii.The above said order is passed only to give time to the petitioner to approach the Bank and resolve the matter amicably. In the event, the petitioner is unable to settle the issue, it is open to the respondents to revive the order of the Chief Judicial Magistrate, Madurai, dated 23.11.2021, and take possession.

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

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

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 concerned.

To

- 1.The Chief Judicial Magistrate,
Madurai.
- 2.The Debts Recovery Tribunal, Madurai.
- 3.The Authorised Officer,
Housing Development Finance Corporation Ltd., (HDFC Ltd.,),
K.K. Nagar, Madurai - 20.
- 4.The Manager,
Housing Development Finance Corporation Ltd., (HDFC Ltd.,),
No.7A, West Veli Street,
Madurai - 1.

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