

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.22666 OF 2021

AND

CRL.M.P.NO.12338 OF 2021

Dr.V.Ganesh Murthy

...Petitioner

Versus

1.M/s.Bajaj Finance Limited
Unit No.804, 8th Floor
177, Delta Wing, Raheja Towers
Anna Salai, Chennai 600 002.
Rep.by its Authorised Officer.

2.M/s.Phoenix ARCX Private Limited
Danicorporate Part, 5th Floor
No.158, CST Road, Kalina
Santacruz (E) Mumbai 400 098.
Rep.by its Authorized Officer
Mr.Sailesh Iyengar

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the Crl.M.P.No.5886 of 2020 on the file of the Learned Chief Metropolitan Magistrate Court, Egmore, Chennai and set aside the impugned order dated 06.09.2021.

For Petitioner : Mr.N.S.Thanu Madhan

ORDER

This petition has been filed to call for the records pertaining to the Crl.M.P.No.5886 of 2020 on the file of the Learned Chief Metropolitan Magistrate Court, Egmore, Chennai and set aside the impugned order dated 06.09.2021.

2. When the case came up for hearing on 13.06.2022, the Learned Counsel for the Petitioner submitted his arguments. He placed reliance on the ruling of the Hon'ble Supreme Court of India. As per his submission, without affording an opportunity of hearing to the Petitioner, the Learned Chief Metropolitan Magistrate Court, Egmore, Chennai had passed orders in Crl.M.P.No.5886 of 2020 under SARFAESI Act.

3. Aggrieved by the order passed by the Learned Chief Metropolitan Magistrate Court, Egmore, Chennai, the Petitioner has approached this Court to set aside the order passed in Crl.M.P.No.5886 of 2020, for not affording the opportunity to the Petitioner herein.

4. Today, when the case came up for hearing for reply of the first Respondent/Bajaj Finance Limited, there was no representation for the first Respondent.

5. The Learned Counsel for the Petitioner submitted that he had already issued notice on the Counsel for M/s.Bajaj Finance Limited as well as to M/s.Bajaj Finance Limited. Without hearing the complainant, the Court did not want to pass orders, hence this case was posted on 15.06.2022. Even today there is no representation for the first Respondent. Hence, it is to be presumed that they admitted the submission of the Learned Counsel for the Petitioner.

6. On perusal of the records, the submission of the Learned Counsel for the Petitioner is found acceptable. Therefore, the order passed by the Learned Chief Metropolitan Magistrate Court, Egmore, Chennai, in Crl.M.P.No.5886 of 2020 under SARFAESI Act is set aside. The Learned Chief Metropolitan Magistrate Court, Egmore, Chennai, shall pass orders afresh, after providing sufficient opportunity to the petitioner, as per law.

7. With the above directions, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

dna

To

The Chief Metropolitan Magistrate Court, Egmore,
Chennai.

+2ccs to Mr.Thanu Madhan, Advocate Sr.No.35792

Crl.O.P.No.22666 of 2021
and
Crl.M.P.No.12338 of 2021

SKM(CO)
RVM(14/07/2022)