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W.P.No.26392 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2022

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THE HONOURABLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.26392 of 2022

1.M/s.Shreyanish Ispat (Chennai),
Rep. by its Managing Director
Mr.Mahendra Kumar Jain S,
Old No.18, New No.5,
Kesava Iyer Street, Near Blue Star Hotel,
Park Town, Chennai – 3.

2.Mr.Mahendra Kumar Jain S

3.M.Madhubala

4.M/s.Metrosteel Rolling Mill's Private Limited,
No.5/18, Kesava Iyer Street, Near Blue Star Hotel,
Park Town, Chennai – 3.

.. Petitioners

Versus

1.Reserve Bank of India,
Rep. by its Governor,
No.16, Rajaji Salai,
Chennai – 1.

2.M/s.Fullerton India Credit Company Limited,
Rep. by its Chief Executive Officer,
Having its Register Office at old No.307, New No.165,
Megh Tower, Poonamalee High Road, Maduravoyal,
Chennai – 95.



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3.The Authorised Officer,
M/s.Fullerton India Credit Company Limited,
Rep. by its Chief Executive Officer,
Having its Register Office at old No.307, New No.165,
Megh Tower, Poonamalee High Road, Maduravoyal,
Chennai – 95.

.. Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India seeking for issuance of a writ of mandamus to direct the 2nd 3rd respondent to forbear them from anyway interfering with the petitioners properties at (i) Office at No. T-1A on the third floor admeasuring 700 sq.ft of built area inclusive of common areas in the apartment complex known as Amar Sindur together with 700/50000 undivided share in all that piece and parcel of land bearing municipal door No.(Old No. 24) new No. 43 as per property tax New No. 67/21 pantheon Road Chennai-600008 and land comprised in R.S.No. 1614/14 measuring One Ground and 1160 sq.ft and as per patta One Ground and 1200 sq.ft. or thereabout and land comprised in R.S.No. 1614/13 measuring Four Ground and 1082 sq.ft as per patta Four Grounds and 1061 sq.ft both situated in Block No.50, Egmore Village, within district of Chennai, (ii) office at No.T-1C, on the third floor admeasuring 1200 sq.ft. of built area, inclusive of common areas in the apartment complex known as “Amar Sindur” together with 1200/50000 undivided share in all that piece and parcel of land bearing municipal door No.(Old NO.24) New No.43 as per property tax new No.67/21, pantheon Road Chennai-600008 and land comprised in R.S.No. 1614/14 measuring One Ground and 1160 sq.ft. and as per patta One Ground and 1200 sq.ft. or thereabout and land comprised in R.S.No. 1614/13 measuring Four Ground and 1082 sq.ft as per patta Four Grounds and 1061 sq.ft, both situated in Block No.50, Egmore Village, particularly by way of sale or any kind of Encumbrance of the same pending consideration at petitioner's representations for one time settlement vide letter dated 16.10.2021 and 20.10.2021.

For Petitioner	: Mr.D.S.Rajasekaran
For R1	: Mrs.R.Kalaivani
For R2 & R3	: Mr.V.Balasubramani



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ORDER

(Order of the Court was delivered by The Hon'ble Acting Chief Justice)

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In paragraph No.10 of the affidavit filed in support of the writ petition, it is averred as

follows:-

“10. I respectfully submit that we are all along willing and ready to settle the entire loan amount within a reasonable time with considerable waiver of default for the covid-19 lockdown period as per the guidelines of the first respondent in pursuance at the order of the Hon'ble Supreme Court.”.

Therefore, taking note of the above said averment, this Court issued notice to the respondents 2 and 3 on 30.09.2022.

2. After getting instruction, learned counsel for the respondents 2 and 3 submitted that they are prepared to give One Time Settlement (OTS) for a sum of Rs.1,50,00,000/-.

3. In reply, learned counsel for the petitioners submitted that the respondents 2 and 3 cannot ask the petitioners to pay the interest accrued during the COVID-19 period as the same has been even waived by the RBI. Therefore, the interest accrued during COVID-19 period may be waived, he pleaded.

4. Learned counsel for the respondents 2 and 3 produced the report of Foreclosure/Closure Simulation dated 12.09.2022, which is extracted below:-

FULLERTON INDIA CREDIT CO. LTD.



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FORECLOSURE/CLOSURE SIMULATION REPORT

Date: 12/09/2022

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To,
METRO STEEL ROLLING MILLS PVT. LIMITED.
OLD No.18, NEW No.5,
KESAVA IYER STREET,
PARK TOWN,
CHENNAI.

Dear Sir / Madam,

Ref: Foreclosure of your MORTGAGES Loan Account No.173101310552439

As per your request, we enclose herewith the net receivable amount, which needs to be paid by you towards foreclosure of the said loan amount:

Principal o/s	:	12,274,290.92
Late payment penal interest	:	541,175.00
Cheque bounce charges (including others)	:	8,814.00
Interest on termination from 04/09/2022 till 12/09/2022	:	33,822.49
Foreclosure charges @4.00% at O/S Principal (including charges)	:	621,708.87
Foreclosure charges	:	526,871.94
GST breakup	:	94,836.94
Pending installments	:	3,077,680.00
Refunds	:	0.00
Net receivable (wafter waive off amount adjustment)	:	16,557,491.29

.....
.....”

5. Learned counsel for the petitioners submitted that as the late payment is working out to Rs.5,41,175/-, the same is liable to be waived as it is accrued during COVID-19 period. Learned counsel for the respondents 1 and 2 submitted that already the benefit of waiver has been given waiving the said sum, hence, although the petitioners have to pay



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Rs.1,65,57,491.29/-, the respondents 1 and 2 are prepared to settle the issue on payment of Rs.1,50,00,000/- by the petitioners.

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6. In view of the above, since the interest accrued during COVID-19 period has been rightly waived by the respondents 2 and 3 as requested by the petitioners, the petitioners are directed to make the payment of Rs.50 lakhs within a period of four weeks from today and further sum of Rs.50 laksh within a period of four weeks thereafter and upon paying the second installment, the petitioners are further directed to pay the balance amount within a period of four weeks thereafter. Needless to mention that if the petitioners commit any default, the respondents 2 and 3 are at liberty to proceed against them in accordance with law. With these directions, the writ petition stands disposed of. Consequently, connected WMP.No.25470/22 is closed and WMP.No.25468/22 is ordered subject to payment of separate court fee.

(T.R., ACJ.) (D.B.C., J.)
10.11.2022

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To

The Governor,
Reserve Bank of India,
No.16, Rajaji Salai,
Chennai – 1.



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THE HON'BLE ACTING CHIEF JUSTICE
and
D.BHARATHA CHAKRAVARTHY, J.
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10.11.2022