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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **01.02.2022**

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P(MD)No.134 of 2022
and
C.M.P(MD)No.578 of 2022

1.G.Michael Yohalin
2.Mrs.Bersalin
3.G.Antony Rajalin ... Petitioners/Petitioners/Appellants

Vs.

1.The Authorized Officer,
Bank of India,
Tuticorin Branch,
48, Beach Road,
Tuticorin.

2.The Authorized Officer,
Bank of India,
Coimbatore Zonal Office,
Star House, 324, Oppanakara Street,
Coimbatore.

3.The Chief Judicial Magistrate,
Thoothukudi District,
Thoothukudi. ... Respondents/Respondents/Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to reduce or modify the order in I.A.No.2056/2021 in S.A.No.589/2021 by the Debt Recovery Tribunal, Madurai to pay the petitioners for the 1st installment a sum of Rs.18,00,000/- on or before 14.01.2022 and the 2nd installment a sum of Rs.18,00,000/- on or before 11.02.2022.

For Petitioner : Mr.R.Narayanan

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ORDER

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[Order of this Court was made by DR.G.JAYACHANDRAN,J.

This Civil Revision Petition has been filed against the order passed in I.A.No.2056 of 2021 in S.A.No.589 of 2021 by the Debt Recovery Tribunal, Madurai, dated 07.12.2021.

2. The facts of the case is that the first petitioner herein availed loan of Rs.80,00,000/- from the first respondent Bank for purchasing of fishing boat in the year 2015. After 2018, the dues were not paid, hence the Bank has declared the loan as "Non Performing Assets" on 30.06.2019. Notice for taking possession was also served on the petitioners. Thereafter, the property was brought to E-Auction on 05.08.2020. However, the petitioners herein approached the Debts Recovery Tribunal seeking stay of the auction and succeeded by getting a conditional interim order. However, the petitioners did not comply the condition. While fact being so, the first respondent Bank has filed an application before the Chief Judicial Magistrate, Thoothukudi to appoint an Advocate Commissioner to take inventories and physical possession of the schedule mentioned property. The said application was allowed by the Chief Judicial Magistrate, Tuticorin on 23.11.2021 and directed the Advocate Commission to file a report by 14.12.2021. In the said circumstances, again the petitioners herein have approached the Debt Recovery Tribunal by filing an Application in S.A.No.589 of 2021, wherein, interim order has been passed directing the petitioners herein to pay a sum of Rs.36,00,000/- in two equal installments. The first installment shall be paid on or before 14.01.2022 and the second installment shall be paid on or before 11.02.2022. Having approached the Debt Recovery Tribunal and got an interim protection of stay of further proceedings, the petitioner herein instead of complying the condition imposed by the Debt Recovery Tribunal, has come to this Court seeking extension of time or modify the order.

3. This Court going by record finds that the loan availed in the year 2015 not cleared and no payment made after 2018, hence, the property was declared as Non Performing Assets as early as in the year 2018 and thereafter, the Bank has proceeded for recovery. Earlier, the petitioners herein sought for indulgence of the Court and the Debt Recovery Tribunal, Madurai in S.A.No.589 of 2021 gave an interim protection on condition that they should pay Rs.36,00,000/- in two equal installments, but the petitioners had not comply the conditions. Hence, the Bank has proceeded by filing an application under Section 14 of SARFAESI Act before the Chief Judicial Magistrate, Thoothukudi and the order has been passed on 23.11.2021 appointing an Advocate Commissioner. Thereafter, for the second time, the petitioner has filed S.A.No.589 of 2021, the Tribunal has passed an interim order granting protection to the petitioners and gave a chance to the petitioners to save the property from auction on condition payment of part loan due of

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Rs.36,00,000/- in two installments. The petitioners have not complied the order. The Debt Recovery Tribunal while passing the interim order has made it clear that if the petitioners failed to deposit any part of the amount as ordered, the respondent Bank shall be at its liberty to proceed further under the SARFAESI Act without any reference to the Tribunal.

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4. This case having failed to comply the condition, the first respondent Bank is at liberty to proceed further and this Civil Revision Petition, without any bonafide, has been filed just to delay the process. Hence, this Civil Revision Petition is dismissed with costs of Rs.2,000/- (Rupees Two Thousand only) payable to the Legal Services Authority, Madurai Bench of Madras High Court, Madurai. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Chief Judicial Magistrate,
Thoothukudi District,
Thoothukudi.

2.The Debts Recovery Tribunal,
Madurai.

3.The Authorized Officer,
Bank of India,
Tuticorin Branch,
48, Beach Road,
Tuticorin.

Copy to:

The Officer in Charge,
Legal Services Authority,
Madurai Bench of Madras High Court,
Madurai

C.R.P(MD)No.134 of 2022
01.02.2022

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MGO(10.02.2022) 3P 5C