BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.04.2022**

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P(MD)No.908 of 2022
and
C.M.P(MD)No.3616 of 2022

M/s.Om Muruga Traders,
A Partnership Rep. by its Partners,
i.K.M.Kannan
ii.K.Padrakali ... Petitioner/Petitioner/ Applicant

.vs.

1. The Authorised Officer,
Karur Vysya Bank Ltd.,
Asset Recovery Branch,
R.S.No.170/9, Uthankudi Village,
Near Mattuthavani Bus Stand,
Madurai – 625 107.

2. The Branch Manager,
Karur Vysya Bank Ltd.,
Sivakasi Branch,
South Car Street, Sivakasi,
Virudhunagar. ... Respondents/Respondents/ Defendants

PRAYER: Petition filed under Article 227 of the Constitution of India, against the order dated 18.02.2022 passed in I.A.No.1315 of 2021 in S.A.No.346 of 2021 on the file of the Debts Recovery Tribunal at Madurai.

For Petitioner : Mr.P.Thirumahilmaran

ORDER

The challenge in this revision is to interim order passed by the Debts Recovery Tribunal, Madurai, dated 18.02.2022 made in I.A.No.1315 of 2021 in S.A.No.346 of 2021.

2. The challenge in the Sarfaesi Application was to the possession notice issued by the bank under the provisions of SARFAESI Act. The Debts Recovery Tribunal, Madurai, while granting stay of the auction, directed the petitioner to pay a sum of Rs.10,00,000/- in two equal instalments. The first instalment of Rs.5,00,000/- was directed to be paid on or before 18.03.2022 and the second instalment was directed to be paid on or before 15.04.2022. It is not in dispute that the petitioner has paid the first instalment of Rs.5,00,000/- on 17.03.2022 within the time stipulated by the Debts Recovery Tribunal.

3. It is the contention of the learned counsel for the petitioner that the condition imposed by the Debts Recovery Tribunal, is onerous and the Tribunal had not taken note of the fact that the petitioner had paid a sum of Rs.5,00,000/- on 04.09.2021 which is before the issuance of the possession notice.

4. We have considered the submissions of the learned counsel for the petitioner.

5. The order granting stay is a discretionery order and we do not think that we could interfere with the same exercising our jurisdiction under Article 227 of the Constitution of India. Admittely, the petitioner owes a sum of Rs.26,98,869.87/- to the bank. Therefore, we do not think that the condition imposed directing the petitioner to pay Rs.10,00,000/- in two instalments could be termed as onerous. While we see no reason to interfere with the order of the Debts Recovery Tribunal, we find some justification in the request of the learned counsel for the petitioner for extension of time for payment of the remaining amount of Rs.5,00,000/- .

6. Considering the nature of the business of the petitioner and the fact that the entrepreneurs are very badly affected by the pandemic and the lock down, we extend the time for payment of the remaining amount of Rs.5,00,000/- till 15.06.2022. The bank shall not proceed with the auction till 15.06.2022.

This Civil Revision Petition is disposed of with the above observation. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AE)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

pm

To:

1. The Presiding Officer,
   Debts Recovery Tribunal,
   Madurai.

+1 CC to M/s.P.THIRUMAHILMARAN, Advocate
(SR-19915[F] dated 20/04/2022)

JUDGMENT MADE IN
C.R.P(MD)No.908 of 2022
and
C.M.P(MD)No.3616 of 2022
20.04.2022

SP/11/05/2022/3P/3C