



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.05.2022

CORAM:

**THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.P (MD) No.10045 of 2022

and

W.M.P. (MD) .Nos.7150 & 7151 of 2022

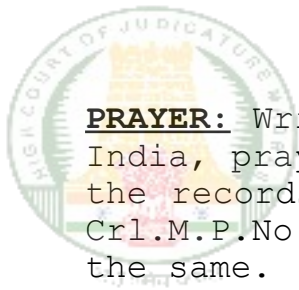
N.Annabackiam,
Proprietor,
M/s. Match Box Ladies Hostel,
No.2609, Vairavapuram 3rd Street,
Sekkalaikatti Village, Karaikudi Taluk,
Sivagangai District-620 002.

...Petitioner

Vs.

- 1.The Authorized Officer,
State Bank of India,
Stressed Assets Recovery Branch, Madurai,
No.8, Dr.Ambedkar Road,
Vinayaga Nagar Branch First Floor,
Madurai-625 020.
- 2.The State Bank of India,
Represented by its Branch Manager,
SME Branch Karaikudi-(63816),
1st Floor, No.5, Subramaniapuram 1st Street North,
Karaikudi-620 002,
Sivagangai District.
- 3.The Debts Recovery Tribunal-Madurai,
Represented by the Registrar,
III & IV Floor, Kalyani Towers,
4/162, Madurai-Melur Road,
(Near Meenakshi Mission Hospital),
Uthangudi Post, Madurai-625 107.
- 4.The Chief Judicial Magistrate Court,
Sivagangai,
Sivagangai District.

...Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 22.04.2022 made in CrI.M.P.No.5727 of 2021 passed by the fourth respondent and to quash the same.

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For Petitioner : Mr.V.Veerapandian
for M/s.Vastlaw Associates
For RR1 & 2 : Mr.P.Pethu Rajesh

O R D E R

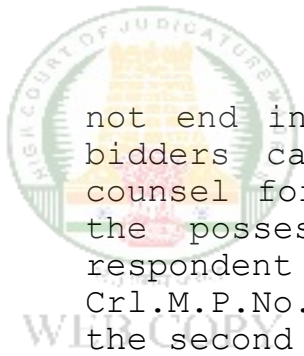
(Order of the Court was made by ABDUL QUDDHOSE, J.)

Mr.P.Pethu Rajesh, learned standing counsel accepts notice on behalf of respondent Nos.1 and 2.

2. This writ petition has been filed challenging the order dated 22.04.2022 passed by the fourth respondent in CrI.M.P.No.5727 of 2021 under Section 14 of the SARFAESI Act under which possession has been granted to the second respondent bank.

3. The petitioner has challenged the impugned order raising various grounds. The petitioner has also already filed an application under Section 17 of the SARFAESI Act before the Debts Recovery Tribunal, Madurai, challenging the sale notice issued by the bank, which is still pending. During pendency of the said proceedings, the second respondent bank has approached the fourth respondent by filing an application under Section 14 of the SARFAESI Act and has obtained possession order dated 22.04.2022 in CrI.M.P.No.5727 of 2021 which is the subject matter of challenge in this writ petition.

4. As seen from the affidavit filed in support of the writ petition, earlier the Debts Recovery Tribunal, Madurai, had passed conditional orders directing the petitioner to pay certain sums of money to the second respondent bank, on or before a particular date. Admittedly, there were defaults committed by the petitioner in complying with the interim directions issued by the Debts Recovery Tribunal. The loan was availed by the petitioner in the year 2018 and the loan account of the petitioner was declared as an NPA on 31.03.2021. When the account of the petitioner was declared as an NPA, there was Covid - 19 Pandemic and lock down was also imposed by the Government. The petitioner is running a ladies hostel. Judicial notice can be taken that occupancy of the ladies hostel would have been deplated on account of Covid-19 Pandemic situation. The petitioner has also expressed her financial difficulty in the affidavit filed in support of the writ petition. Though the sale notices were earlier issued by the second respondent bank, which did



not end in success in favour of the second respondent bank as no bidders came forward to buy the property, the learned standing counsel for the second respondent bank would now submit that since the possession order has already been granted by the fourth respondent under the impugned order dated 22.04.2022 passed in Crl.M.P.No.5727 of 2021, there will be no further bottlenecks for the second respondent bank to sell the property.

5. The learned counsel for the petitioner on the other hand would submit that the petitioner is willing to settle the entire dues of the second respondent bank, provided the petitioner is granted sufficient time to make the payment. The learned counsel for the petitioner on instructions would also submit that the petitioner is willing to pay a sum of Rs.25,00,000/- on or before 31.05.2022 and willing to pay the balance amount, within a time frame to be fixed by this Court.

6. The learned standing counsel for the second respondent bank on instructions would submit that the petitioner will have to pay the balance amount after adjustment of the payment of Rs.25,00,000/- within a period of 45 days thereafter.

7. After recording the submissions made by the respective counsels, this Court disposes of this writ petition by issuing the following directions:

(a) The petitioner shall pay a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) to the second respondent bank on or before 31.05.2022;

(b) After payment of the afore said sum, on or before 31.05.2022, the petitioner shall pay the balance amount to the second respondent bank on or before 15.07.2022;

(c) On payment of the afore said sum of Rs.25,00,000/- by the petitioner on or before 31.05.2022, the impugned order dated 22.04.2022 passed in Crl.M.P.No.5727 of 2021 by the fourth respondent, shall be kept in abeyance until further orders by this Court;

(d) In case of any default in the payment of the aforesaid sums within the stipulated date fixed by this Court, the second respondent bank is at liberty to sell the mortgaged property in accordance with law and the order dated 22.04.2022 passed in Crl.M.P.No.5727 of 2021 can also be enforced by the second respondent bank; and

(e) On payment of a sum of Rs.25,00,000/- by the petitioner on or before 31.05.2022, possession of the property shall not be disturbed by the respondents.



No Costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Vacation Officer

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PM

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 Branch Manager
State Bank of India,
SME Branch Karaikudi-(63816),
1st Floor, No.5, Subramaniapuram 1st Street North,
Karaikudi-620 002,
Sivagangai District.
- 2.The Debts Recovery Tribunal-Madurai,
Represented by the Registrar,
III & IV Floor, Kalyani Towers,
4/162, Madurai-Melur Road,
(Near Meenakshi Mission Hospital),
Uthangudi Post, Madurai-625 107.
- 3.The Chief Judicial Magistrate Court,
Sivagangai,
Sivagangai District.

+1 CC to M/s.P. PETHU RAJESH, Advocate (SR-23725[F] dated 18/05/2022)

+1 CC to M/s.M/S VASTLAW ASSOCIATES, Advocate (SR-23721[F] dated 18/05/2022)

ORDER MADE IN

W.P (MD) No.10045 of 2022

18.05.2022