



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.05.2022

CORAM

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

AND

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.10271 of 2022

and

W.M.P. (MD)No.7300,7301 of 2022

1.M.Nagarajan
2.N.Tamilarasi

...Petitioner

Vs.

1.The Authorised Officer,
Cholamandalam Investment and Finance
Company Limited, Chennai - 600 001.

2.The Branch Manager,
M/s.Cholamandalam Investment and Finance
Company Limited, Madurai - 625 010.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to restrain the respondents from dispossessing the petitioners from the property bearing Door Number 61, comprised in T.S.No.701, Madurai Town, Survey Ward No.8, Corporation Ward No.37, Tahsildar Pallivasal Street, Madurai North, Madurai District to an extent of 933¾ sq.ft., land till the disposal of the SARFAESI appeal in S.A.No.267 of 2022 on the file of the Debts Recovery Tribunal, Madurai, and consequently, restrain the respondents from auctioning the above property without following due process of law.

For Petitioner :Mr.S.Syed Mohammed Badhusa

For Respondents :Mr.P.Pethurajesh

O R D E R

[Order of the Court was made by **ABDUL QUDDHOSE, J.**]

This Writ Petition has been filed for a Mandamus to restrain the respondents from dispossessing the petitioners from the property, which is mortgaged with the respondents till the disposal of the SARFAESI appeal in S.A.No.267 of 2022 on the file of the Debts Recovery Tribunal, Madurai and consequently, to restrain the respondents from auctioning the property without following the due process of law.



2.The petitioners have borrowed money from the respondents and have committed default in the repayment of the said loan. The respondents have issued possession notice under Section 13(4) of the SARFAESI Act, on 16.08.2020, in which, the outstanding amount payable by the petitioners to the respondents has been disclosed as Rs.39,24,469.50/-. The petitioners have preferred an appeal before the Debts Recovery Tribunal, Madurai, under Section 17 of the Act, which is pending. The petitioners have approached this Court in view of the fact that there is no Presiding Officer before the Debts Recovery Tribunal, Madurai.

3.The petitioners have raised various grounds for challenging the possession notice. In this Writ Petition, they seek protection from dispossession. According to the learned Counsel for the petitioners, as on date, the petitioners are liable to pay the respondents a sum of Rs.48,00,000/- (approx.).

4.The learned Counsel for the petitioners, on instructions, would submit that the petitioners are willing to pay a sum of Rs.12,00,000/- on or before 30.06.2022 in two installments. According to him, the petitioners shall pay Rs.6,00,000/- to the respondents on or before 30.05.2022 and shall pay the remaining balance of Rs.6,00,000/- on or before 30.06.2022. The same is recorded by this Court.

5.Insofar as the balance due payable by the petitioners to the respondents is concerned, the learned Counsel for the petitioners submits that the petitioners shall agitate their rights with regard to the disputed sum before the Debts Recovery Tribunal, Madurai, where, the petitioners have already filed the statutory appeal under Section 17 of the SARFAESI Act. Further, he would submit that the possession of the petitioners should not be disturbed till 30.06.2022. The learned Counsel for the respondents has not raised any serious objection for the submissions made by the learned Counsel for the petitioners.

6.After recording the submissions made by the respective learned Counsels, this Writ Petition is disposed of by passing the following order:

(a)The petitioners shall pay a sum of Rs.6,00,000/- to the respondents on or before 30.05.2022.

(b)The petitioners shall pay another sum of Rs.6,00,000/- to the respondents on or before 30.06.2022.

(c) In case of any default committed by the petitioners in payment of the aforementioned installments to the respondents, the respondents are at liberty to proceed further pursuant to the possession notice issued by them on 16.08.2020.

(d)On payment of the above sums within the stipulated date, the respondents shall not dispossess the petitioners till 30.06.2022.

<https://hcservices.org.in/hcservices> For 30.06.2022, the petitioners shall redress their



grievance only before the Debts Recovery Tribunal, Madurai, in S.A.No.267 of 2022.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Vacation Officer(CS III)

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/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Presiding Officer,
Debt Recovery Tribunal,
Madurai.
- 2.The Authorised Officer,
Cholamandalam Investment and Finance
Company Limited,Corporate Office,
1st Floor,Dare House,
No.2,NSC Bose Road,
Chennai - 600 001.
- 3.The Branch Manager,
M/s.Cholamandalam Investment and Finance
Company Limited,2/3,GV Tower,Third Floor,
Opp.To Fenner India,
Madurai - 625 010.

+1 CC to M/s.P.PETHU RAJESH, Advocate(SR-23782[F] dated
19/05/2022)

W.P(MD)No.10271 of 2022
19.05.2022

MGJ(27.05.2022) 3P 5C