BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.05.2022**

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

W.P(MD)No.10201 of 2022
and
W.M.P.(MD).Nos. 7235, 7237 & 7239 of 2022

1.G.Sadasivam
2.G.Chadrasekar
3.S.Kokilavani
4.C.Parameshwari ...Petitioners

Vs.

1.The Chief Judicial Magistrate,
District Court Complex,
Madurai.

2.The Canara Bank,
Represented by its Authorized Officer,
N.Sreedhara,
SME Branch, No.50, VMR Complex,
Bye Pass Road, Vasanth Nagar,
Madurai-625 003. ...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 pertaining to the impugned order passed by the first respondent dated 18.04.2022 made in Cr.M.P.No.269 of 2022 and quash the same.

For Petitioners : Mr.M.Ajmal Khan
Senior Counsel
for Mr.S.Suresh
For R-2 : Mr.C.Deepak

O R D E R
(Order of the Court was made by ABDUL QUDDHOSE, J.)

This writ petition has been filed challenging the order dated 18.04.2022 passed under Section 14 of the SARFAESI Act in Cr.M.P.No.269 of 2022 on the file of the Chief Judicial Magistrate, Madurai.

2. The petitioner has raised several grounds for challenging the impugned order. According to the petitioners, the second respondent bank has not re-structured the loan as per the Reserve Bank of India guidelines during Covid-19 Pandemic which is statutory in nature and has a binding force on the second respondent bank. The petitioners have also claimed that they have already challenged the possession notices issued to them before the Debts Recovery Tribunal, Madurai.

3. It was pointed out by the learned counsel for the second respondent that SARFAESI appeals have not been numbered even though particulars have been given in the affidavit filed in support of the writ petition.

4. Today, it has been verified and it has been informed by the learned Senior Counsel for the petitioners that though SARFAESI appeals were filed in the month of January 2022, the same have not been numbered till date.

5. According to the learned counsel for the second respondent bank, a sum of Rs.19,11,00,000/- is due and payable by the petitioners as on date. He is also disputing the contentions raised by the petitioners in this writ petition. The NPA with regard to the petitioners' loan accounts were admittedly given effect to by the second respondent bank during Covid-19 pandemic. The petitioners having already filed SARFAESI appeals before the Debts Recovery Tribunal. It is for the Debts Recovery Tribunal, to decide the contentions raised by them in this writ petition, on merits and in accordance with law. But, admittedly, the petitioners have committed default in the repayment of loan and the outstanding amount is huge. Therefore, we are of the considered view that the petitioners must be put on terms before they are allowed to agitate their rights before the Debts Recovery Tribunal in the SARFAESI appeals filed by them which are yet to be numbered.

6. After giving due consideration to the total outstanding amount as claimed by the second respondent bank as Rs.19 Crores and odd, we are of the considered view that the petitioners will have to pay 25% of the said amount which works out to Rs.4,75,00,000/- which the petitioners will have to pay in the following manner:

(a) The petitioners shall pay a sum of Rs.50,00,000/- on or before 23.05.2022;

(b) The balance amount of Rs.4,25,00,000/-, shall be paid in the following manner:

Three equated monthly installments of Rs.1,00,00,000/- commencing from 01.07.2022 and the fourth installment of Rs.1,25,00,000/- shall be paid on or before 01st October, 2022.

7. The Debts Recovery Tribunal, Madurai is directed to number the SARFAESI appeals in Diary Nos.18, 19, 20, 21 and 48 of 2022, if the said SARFAESI appeals are otherwise in order, within a period of one week from the date of receipt of a copy of this order.

8. The Registry of the Debts Recovery Tribunal, Madurai, is directed to transfer the appeals after numbering, to the Debts Recovery Tribunal, Coimbatore, within a period of one week thereafter. On receipt of files, pertaining to SARFAESI appeals filed by the petitioners, the Debts Recovery Tribunal, Coimbatore, shall dispose of the appeals within a period of seven months from the date of receipt of files from the Debts Recovery Tribunal, Madurai.

9. The impugned order dated 18.04.2022 passed in Cr.M.P.No.269 of 2022 shall be kept in abeyance by the second respondent bank. In case of any default in the payment of the installments as stipulated supra by this Court, the second respondent bank is at liberty to execute the impugned order dated 18.04.2022 passed in Cr.M.P.No.269 of 2022.

10. With the above directions, this writ petition is disposed of. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Vacation Officer/
Assistant Registrar (CS-III)

// 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 Chief Judicial Magistrate,
District Court Complex,
Madurai.

2. The Authorized Officer,
   The Canara Bank,
   SME Branch, No.50, VMR Complex,
   Bye Pass Road, Vasanth Nagar,
   Madurai-625 003.

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

4. The Presiding Officer,
   The Debts Recovery Tribunal,
   Coimbatore.

ORDER MADE IN
W.P(MD)No.10201 of 2022
20.05.2022

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