



WEB COPY

W.P(MD)No.13251 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MRS.JUSTICE S.SSRIMATHY**

W.P(MD)No.13251 of 2022

and W.M.P.(MD) Nos.9405 to 9407 of 2022

Bala Subramaniam

... Petitioner

Vs.

1.The Chief Judicial Magistrate,
Kanniyakumari District,
At Nagercoil.

2.LIC Housing Finance Limited,
Nagercoil Branch,
132, 1st Floor, Near Jumma Mosque,
M.S.Road, Vadasery,
Nagercoil,
Represented by its Authorized Officer.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, praying to call for the records of the culminating into the order dated 09.04.2022 in Cr.M.P.No.577 of 2022 u/s 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) passed by the 1st Respondent and set aside the same as illegal.

For Petitioner : Mr.N.S.Ramakrishna Dass

For Respondent No.2 : Mr.V.Veera Pandian

Standing Counsel

* * *

ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

Challenging the order of learned Chief Judicial Magistrate, Kanniyakumari District @ Nagercoil, dated 09.04.2022, made in Cr.M.P.No.577 of 2022 u/s 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), the above writ petition is filed.

2. Heard Mr.N.S.Ramakrishna Dass, learned counsel for the petitioner as well as Mr.V.Veera Pandian, learned Standing Counsel for the second respondent.



3. The second respondent granted housing loan to the petitioner and it is pointed out that the amount due as on date is around Rs.14.6 Lakhs. It is admitted that pursuant to the order impugned in the writ petition, possession of the dwelling house of the petitioner has been taken.

4. While the petitioner challenges the impugned order, learned counsel for the petitioner states that on payment of 25% of the amount due as on date by the petitioner to the second respondent, the second respondent may be directed to handover possession of the dwelling house to the petitioner. He would further submit that the petitioner undertakes to make further payments to enable the second respondent to re-schedule the loan.

5. Learned Standing Counsel for the second respondent also indicated that if the petitioner pays 25% of the total amount due within the time stipulated, the respondent may handover possession. However, it is further represented that the petitioner should make further payment to avoid further action by the second respondent.

6. Considering the grievance of the petitioner and the facts and circumstances of the case, particularly, the fact that the property secured is a dwelling house, wherein the petitioner is residing along with his family members and possession has been taken, this Court is inclined to pass the following order:

(i) The petitioner is directed to pay a sum of Rs.4,00,000/- (Rupees Four Lakhs only) directly to the second respondent within a period of four weeks from the date of receipt of a copy of this order.

(ii) On such payment, the second respondent is directed to handover possession of the dwelling house to the petitioner within a period of one week from the date of receipt of such amount.

(iii) The petitioner is directed to file an application to the second respondent either to foreclose the loan account by One Time Settlement or regularise the loan account by rescheduling repayment by making substantial payment to show his bonafide within a period of three months.

(iv) In case of failure by the petitioner to pay the above sum of Rs.4,00,000/- within four weeks from today, the interim direction shall stand vacated automatically without further reference to this Court and it is open to the second respondent to proceed further in accordance with law.

7. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)



sj

To

WEB COPY

The Chief Judicial Magistrate,
Kanniyakumari District,
at Nagercoil.

+1 CC to M/s.N.S. RAMAKRISHNA DASS, Advocate (SR-28681[F] dated
29/06/2022)

W.P (MD) No.13251 of 2022
27.06.2022

SS/07/07/2022/ 3P 3C