BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.16496 of 2022
and
W.M.P(MD) Nos.11922 and 11925 of 2022

Christ M.Miller ... Petitioner

-Vs-

1.The Branch Manager,
Tamil Nadu Mercantile Bank Ltd.,
Marthandam Branch,
Marthandam,
Kanyakumari District.

2.The Authorized Officer,
Tamil Nadu Mercantile Bank Ltd.,
Marthandam Branch,
Marthandam,
Kanyakumari District.

3.A.John Leon Singh
S/o.Mr.S.Amalaorbava Dhas,
Proprietor,
M/s.Angel Motors,
324/7B, Main Road, Pammam,
Marthandam-629 165,
Kanyakumari District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned demand notice dated 18.12.2018 and the consequential impugned possession notice dated 16.07.2022 issued by the second respondent and quash the same as illegal.

For Petitioner : Mr.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondent : Mr.N.Dilip Kumar
Standing Counsel

ORDER

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

Challenging the demand notice, dated 18.12.2018 and the consequential possession notice, dated 16.07.2022, the above writ petition is filed by the guarantor mortgagor.

2. The petitioner has offered his valuable property as a security. Though it is admitted that the petitioner has deposited his title deed originally to secure a sum of Rs.50,00,000/- (Rupees Fifty Lakhs only),

which was advanced to the borrower by way of credit facility. It is also admitted that the limit was extended upto Rs.1,00,00,000/- (Rupees One Crore only) by offering the same property as security. As regards the further credit facility availed by the borrower, the respondent bank admitted that it was on the basis of further additional security offered by the borrower himself. As per the possession notice, the respondent bank has arrived at the total outstanding as Rs.2,67,72,894.37/- (Rupees Two Crores Sixty Seven Lakhs Seventy Two Thousand Eight Hundred Ninety Four and Paise Thirty Seven only). Out of the said sum, a sum of Rs.1,78,13,922.57 (Rupees One Crore Seventy Eight Lakhs Thirteen Thousand Nine Hundred Twenty Two and Paise Fifty Seven only) has been arrived at as the liability of the borrower along with the petitioner.

3. The learned Senior Counsel appearing for the petitioner submitted that the petitioner is prepared to pay a substantial amount to show his *bona fides* within a period of six months.

4. Having regard to the facts narrated by the petitioner in the affidavit and the submission of the learned Senior Counsel appearing for

the petitioner and the learned counsel appearing for the respondent bank, this Court is inclined to dispose of the writ petition in the following line:

(i) Upon the petitioner pays a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) within a period of four weeks and a further sum of Rs.26,00,000/- (Rupees Twenty six Lakhs) within a period of six months from the date of receipt of a copy of this order, directly to the respondent bank, the respondent bank shall not take coercive action towards recovery against the property of the petitioner.

(ii) Upon the deposit of total sum of Rs.36,00,000/- (Rupees Thirty Six Lakhs only) within a period of six months from the date of receipt of a copy of this order, it is open to the petitioner to approach the respondent bank for waiver of penal interest and other concession including restructuring of loan or one time settlement.

(iii) The respondent shall consider the representation of the petitioner on merits in the light of the Reserve Bank of India guidelines or the norms of the respondent bank and pass appropriate orders within a reasonable period and communicate the same to the petitioner. Till such time an order is passed by the respondent bank and duly communicated to the petitioner, there shall be no coercive action against the petitioner or the petitioner's property.

(iv) It is open to the respondent bank to consider the petitioner's or the borrower's case for one time settlement. In case, a proposal for one time settlement is submitted by the petitioner or the borrower, the same shall be considered taking into account the payment made by the petitioner as per the directions of this Court. This order does not stand in the way of the respondent bank taking any action against the borrower or the property offered by him as securities. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.S.R., J.) & (S.S.Y., J.)
27.07.2022

Index : Yes / No
Internet : Yes / No

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S.S.SUNDAR, J.

AND

S.SRIMATHY, J.

CP

ORDER MADE IN

W.P(MD)No.16496 of 2022
and
W.M.P(MD) No.11925 of 2022

27.07.2022