



W.P.(MD)No.16906 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :29.07.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P.(MD)No.16906 of 2022
and
W.M.P.(MD)No.12318 of 2022

K.Karuppanaraja

... Petitioner

Vs.

The Authorized Officer,
Housing Development Finance Corporation Ltd,(HDFC Ltd),
No.406, Sakthi Sivam Plaza,
Pumping Station Road, 9th Cross St,
K.K.Nagar(East),
Madurai.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the entire records pertaining to the order dated 19.04.2022 passed in Cr.M.P.No.7024 of 2021 on the file of the learned Chief Judicial Magistrate, Theni, passed under Section 14(1) and 14(2) of SARFAESI Act and quash the same as illegal.

For Petitioner : Mr.A.Mohan

For Respondent : Mr.Pala Ramasamy



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ORDER

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

Challenging the order of the learned Chief Judicial Magistrate, Theni in Cr.M.P.No.7024 of 2021, dated 19.04.2022, passed in the application filed by the respondent under Section 14 of the SARFAESI Act, the above writ petition is filed.

2. Heard Mr.A.Mohan, learned counsel for the petitioner and Mr.Pala Ramasamy, learned standing counsel for the respondent bank.

3. By consent of parties, the writ petition is disposed of at the admission stage itself.

4. Though the learned counsel appearing for the petitioner has stated some reasons for non-payment of monthly instalments, this Court is inclined to entertain this writ petition as the learned counsel for the petitioner submitted that the petitioner is prepared to pay 25% of the total amount due as on date in four monthly instalments.



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5. Considering the fact that the loan itself was disbursed only in the year 2017 and there is likelihood that the respondent bank may consider restructuring of loan upon receipt of substantial payment, the above writ petition is disposed of with the following directions:

(i)the respondent bank shall not proceed further in pursuant to the impugned order of the learned Chief Judicial Magistrate, Theni, dated 19.04.2022 in Cr.M.P.No.7024 of 2021, provided the petitioner pays a sum of Rs.4,50,000/- on or before 26.08.2022, a further sum of Rs.4,50,000/- on or before 26.09.2022, a further sum of Rs.4,50,000/- on or before 26.10.2022 and a further sum of Rs.4,50,000/- on or before 28.11.2022. In case of failure of payment of any one of the installments, it is open to the respondent to proceed further in accordance with law, ignoring this order.

(ii)In case the petitioner pays the said sum of Rs.18,00,000/- in four monthly instalments as directed earlier, the petitioner is directed to approach the bank for waiver of penal interest or for One Time Settlement or for restructuring the loan as may be permissible by the respondent bank in accordance with the Reserve Bank of India Circular or banking norms. On such



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representation being made by the petitioner, the respondent shall consider and pass appropriate orders on merits.

(iii) Till such time the petitioner's representation is considered and disposed of and the decision is also communicated to the petitioner, the respondent shall not proceed further by initiating any coercive action against the petitioner.

No Costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
29.07.2022

Index : Yes / No

pm

To

The Chief Judicial Magistrate,
Theni.



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and
S.SRIMATHY, J.
pm

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