



W.P.(MD)No.17274 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.08.2022

CORAM

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

W.P(MD)No.17274 of 2022

and

W.M.P.(MD)Nos.12605 and 12606 of 2022

R.Sankara Narayanan

... Petitioner

Vs.

1.Tamilnadu Mercantile Bank,
Sankarankovil Branch,
through its Authorised Officer.

2.The Chief Judicial Magistrate Court,
Tirunelveli District, Tirunelveli.

3.Debts Recovery Tribunal-Madurai,
represented by its Registrar,
III and IV Floor, Kalyani Tower,
4/162, Madurai Melur Road,
(Near Meenakshi Mission Hospital),
Uthangudi Post, Madurai-625 107.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the second respondent in his proceedings in Crl.M.P.No. 1303 of 2022, dated 30.06.2022 and to quash the same.

For Petitioner :Mr.M.P.Senthil

For R1 :Mr.P.Pethurajesh



W.P.(MD)No.17274 of 2022

ORDER

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

Challenging the order of the learned Chief Judicial Magistrate, Tirunelveli District, in Crl.M.P.No.1303 of 2022, dated 30.06.2022, in an application filed by the respondent bank under Section 14 of SARFAESI Act, the present Writ Petition is filed.

2.Heard Mr.M.P.Senthil, learned Counsel for the petitioner and Mr.P.Pethu Rajesh, learned Standing Counsel, who takes notice on behalf of respondent. By consent of both parties, the present Writ Petition is taken up for final disposal at admission stage itself.

3.The learned Counsel for the petitioner states that the petitioner has challenged the previous sale notice before the Debts Recovery Tribunal by filing SARFAESI Application and complied with the conditions imposed by the Tribunal while granting interim orders without fail. However, the Tribunal dismissed the application filed by the petitioner. It is now submitted by the learned Counsel for the respondent bank that the previous sale notices have become infructuous, as there was no bidders.



W.P.(MD)No.17274 of 2022

4. When sale had not taken place pursuant to the previous sale notice, this Court does not find any consequence, that would follow the order dismissing the SARFAESI applications, as the petitioner cannot have a cause to file further appeal as against the order dismissing the said application.

5. Be that as it may, the total liability as on 30.06.2022 is around Rs.17,00,000/-, as per the instructions furnished by the learned Counsel for the respondent bank. The learned Counsel for respondent bank urges this Court not to entertain this Writ Petition on the ground that the petitioner has an alternative remedy to approach the Debts Recovery Tribunal. However, the learned Counsel for the petitioner states that the Presiding Officer appointed for the Debts Recovery Tribunal, Madurai, has not assumed charge and that it is very difficult for the borrowers to move the application before the in-charge officer of the Debts Recovery Tribunal, Madurai, as the Presiding Officer in-charge takes up applications ones in a week pertaining to the cases filed before Debts Recovery Tribunal, Madurai. The learned Counsel for the petitioner states that the petitioner is prepared to settle the entire liability, if six months time is granted. However, The learned Counsel for the respondent bank submitted that the petitioner though has promised before the respondent bank that he would settle the entire amount within



W.P.(MD)No.17274 of 2022

a time frame, has not discharged the loan.

WEB COPY

6.The secured asset is a residential house and it is admitted that the reserve price for the property as per the previous sale notice is more than the outstanding amount as on date. This Court is of the view that the petitioner is entitled to some indulgence in view of the fact that he has complied with the earlier direction of the Tribunal when he challenges the sale notice. Hence, instead of keeping the Writ Petition pending, this Court is inclined to dispose of the Writ Petition with the following directions:

(1)The respondent shall not proceed further with the impugned order, dated 30.06.2022 provided the petitioner pays a sum of Rs.1,50,000/- on or before 02.09.2022, a further sum of Rs.1,50,000/- on or before 03.10.2022 and a further sum of Rs.1,30,000/- on or before 02.11.2022.

(2)In case the petitioner fails to pay any one of the instalments, in the manner directed above, it is open to the respondent bank to proceed with further in accordance with law ignoring this order.

(3)In case the petitioner deposits the amount as directed above, the petitioner is permitted to submit a representation to the respondent bank either for waiver of penal interest or One Time Settlement or for restructuring the loan and other concession, as may be permissible under



W.P.(MD)No.17274 of 2022

the guidelines of Reserve Bank of India or the norms applicable to the respondent bank and the respondent bank shall pass appropriate orders in accordance with law.

(4)Till such time, an order is passed on the representation of the petitioner and the same is communicated to the petitioner, the respondent bank shall not initiate any coercive action against the petitioner.

7.The Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [S.S.Y., J.]
03.08.2022

Index : Yes / No

cmr

To

- 1.The Chief Judicial Magistrate,
Tirunelveli District, Tirunelveli.
- 2.Debts Recovery Tribunal-Madurai,
represented by its Registrar,
III and IV Floor, Kalyani Tower,
4/162, Madurai Melur Road,
(Near Meenakshi Mission Hospital)
Uthangudi Post, Madurai-625 107.



WEB COPY



W.P.(MD)No.17274 of 2022

S.S.SUNDAR, J.

and

S.SRIMATHY, J.

cmr

W.P(MD)No.17274 of 2022

03.08.2022