BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.08.2022

CORAM

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

W.P(MD)No.17521 of 2022
and
W.M.P.(MD)Nos.12746 and 12748 of 2022

S.Jeyasekaran ... Petitioner

Vs.

1.The Debts Recovery Tribunal,
represented by its Registrar,
IV Floor, Kalyani Tower, Melur Road, Madurai.

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

3.M/s.Canara Bank,
represented by its Authorised Officer,
M.Ramesh Deva, Tenkasi District. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent, dated 20.05.2022 in Crl.M.P.(MD)No.3772 of 2022 under Section 14 of SARFAESI Act, 2022 and to quash the same and to direct the third respondent to re-deliver the possession of the dwelling house of the petitioner which was taken physical possession by the third respondent on 27.07.2022.

For Petitioner :Mr.M.Kumar
For R1 :Mr.Ashok Kumar Ram
Central Government Standing Counsel
For R3 :Mr.R.Pandivel

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ORDER

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

This Writ Petition is filed challenging the order of learned Chief Judicial Magistrate, Tirunelveli, in Crl.M.P.No.3772 of 2022, dated 20.05.2022 in an application filed by the respondent bank under Section 14 of SARFAESI Act. The prayer is also for issuing a direction to re-deliver the possession of the dwelling house, which was taken physical possession by the third respondent on 27.07.2022.

2.Heard Mr.M.Kumar, learned Counsel for the petitioner, Mr.Ashok Kumar Ram, learned Central Government Standing Counsel, who takes notice on behalf of first respondent and Mr.R.Pandivel, learned Standing Counsel, who takes notice on behalf of third respondent. By consent of all parties, the present Writ Petition is taken up for final disposal at admission stage itself.

Brief facts:

3.The petitioner has admitted the liability as per the impugned order. Though the petitioner has borrowed a sum of Rs.20,00,000/- in 2015, the petitioner states that he has paid more than Rs.13,00,000/-. However, the liability as on the date of the impugned order is around Rs.24.84 lakhs and odd. The petitioner states that he has paid a sum of Rs.1,00,000/- pursuant to the impugned order to postpone the physical possession. However, it is admitted that physical possession was taken by the respondent bank on 27.07.2022.

4.The learned Counsel for the petitioner states that the petitioner is prepared to pay a sum of Rs.5,00,000/- within a short time. He further states that the petitioner has got Rs.4,00,000/-, which can be paid immediately. The learned Counsel for the petitioner seeks time to pay a further sum of Rs.1,00,000/-, within a reasonable time.

5.Though the learned Counsel for the third respondent has serious objection, having regard to the facts and circumstances of the case and in the interest of both sides, this Court is inclined to dispose of the Writ Petition with the following directions:

(1)Upon the petitioner paying a sum of Rs.4,00,000/-, within a period of two weeks, the respondent bank is directed to handover physical possession of the house, which was taken from the petitioner on 27.07.2022.

(2)The petitioner is directed to pay a further sum of Rs.1,00,000/- within a period of two weeks from the date of taking possession from the respondent bank.

(3)Thereafter, it is open to the petitioner to submit a proposal or representation to the respondent bank either for waiver of penal interest or for One Time Settlement or for re-structuring the loan.

(4)When a representation is submitted by the petitioner within a period of four weeks from the date of making of a further sum of Rs.1,00,000/- as directed by this Court in this order, the respondent bank shall consider and pass appropriate orders on merits keeping in mind the guidelines issued by the Reserve Bank of India as well as the norms applicable to the respondent bank.

(5)Till such time, the representation of the petitioner is considered and a final order is passed and communicated to the petitioner, the respondent bank shall not initiate any coercive action against the petitioner or the property mortgaged.

(6)In case, the petitioner commits any default in making any one of the payments as directed above, the respondent bank shall proceed in accordance with law ignoring this order.

6.With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] **[S.S.Y., J.]**
04.08.2022

Index : Yes / No

cmr

To

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

S.S.SUNDAR, J.

and

S.SRIMATHY, J.

cmr

W.P(MD)No.17521 of 2022

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