



W.P.(MD)No.17938 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2022

CORAM

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

W.P(MD)No.17938 of 2022

and

W.M.P.(MD)Nos.13091 and 13092 of 2022

A.Krishnamoorthy

... Petitioner

Vs.

The Equitas Small Finance Bank Ltd.,
Represented by its Authorized Officer,
Branch Office at
No.11/1B, GVC Complex,
2nd Floor, Bypass Road,
Madurai – 625 010.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for records of the impugned order passed in Cr.M.P.No.485 of 2022 dated 24.05.2022 by the Chief Judicial Magistrate, Madurai and quash the same and consequently direct the respondent from taking physical possession of the petitioner property in S.No.411/1 part with an extent of 345 sq. ft. EWS A-450 situated in Avaniyapuram Village, Madurai South Taluk, Madurai District within the Madurai Joint – IV Sub-Registration District.



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For Petitioner : Mr.S.Satheesh Kumar

For Respondent : Mr.P.Baskaran
Standing Counsel

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ORDER

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

Challenging the order passed by the Chief Judicial Magistrate, Madurai, in Cr.M.P.No.485 of 2022, dated 24.05.2022, the above Writ Petition is filed.

2. Heard Mr.S.Satheesh Kumar, learned counsel for the petitioner and Mr.P.Baskaran, learned Standing Counsel for the respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Learned counsel appearing for the petitioner submits that the petitioner is eking out his livelihood by driving auto-rickshaw and that due to financial crunch on account of COVID – 19 pandemic, he was unable to make regular payment.



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4. Since the loan was declared as NPA, it appears that respondent Bank has initiated proceedings for recovery of loan amount and on the application filed by the Bank, learned Chief Judicial Magistrate has passed the impugned order. Though it is referred to in the order impugned that a sum of Rs.9,35,733/- is due as on 19.05.2022, learned counsel for the respondent Bank has stated that the liability as on date is around Rs.10.59 Lakhs. The petitioner has mortgaged the residential house and is under the threat of dispossession. Hence, the petitioner has approached this Court.

5. Learned counsel appearing for the petitioner states that the petitioner is prepared to pay 25% of the total outstanding as on date within a period of three months to save his possession of the residential house.

6. Considering the various facts and circumstances, this Court is of the view that the petitioner can be shown some indulgence. Hence, this Court is inclined to dispose of the Writ Petition in the following lines:-

(i) Upon the petitioner paying a sum of Rs.1,00,000/-



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(Rupees One Lakh only) on or before 12.09.2022, a sum of Rs.1,00,000/- (Rupees One Lakh only) on or before 12.10.2022 and a further sum of Rs.75,000/- (Rupees Seventy Five Thousands only) on or before 11.11.2022, the respondents are directed not to proceed further pursuant to the impugned notice.

(ii) In case the petitioner commits any default in paying any one of the instalments, it is open to the respondent Bank to proceed further in accordance with law ignoring this order.

(iii) If the petitioner makes payment as indicated above, he may approach the bank and submit a representation within a period of two weeks from the payment of last instalment either for waiver of penal interest or for One Time Settlement or for restructuring the loan or for any other concession, as may be permissible under the guidelines of Reserve Bank of India or the norms applicable to the respondent bank.

(iv) The respondent bank shall consider the same and pass appropriate orders in accordance with law.

(v) Till such time, the respondent bank consider the representation of the petitioner and communicate the decision taken to the petitioner, the respondent bank shall not initiate any coercive action against the petitioner.



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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.]
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Index : Yes / No

sj



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and

S.SRIMATHY, J.

sj

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