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W.P.(MD)No.19736 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.08.2022

CORAM

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

W.P.(MD)No.19736 of 2022
and
W.M.P.(MD)No.14404 of 2022

1.S.Chandru
2.Rama Devi

... Petitioners

Vs.

1.The Chief Judicial Magistrate,
Madurai,
Madurai District Court, Madurai-20.

2.Vel Rajan,
Authorised Officer,
Janan Small Finance Bank Limited,
Madurai Branch, Krishna Puram Colony Main Road,
Mahatma Gandhi Nagar, Madurai-625 014.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of impugned possession take over order passed by the first respondent in Cr.M.P.No.587 of 2022 dated 10.06.2022 under Section 14 of the SARFAESI Act and quash the same and direct the second respondent to hand over the petitioners' property to them.

For Petitioners :Mr.C.S.Ravichandran

For R2 :Mr.S.Babu



WEB COPY



WP(MD)No.19736 of 2022

ORDER

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

Challenging the order passed by the learned Chief Judicial Magistrate, Madurai, in Crl.M.P.No.587 of 2022, dated 10.06.2022 in an application filed by the respondent financial institution, the above Writ Petition is filed.

2.Heard Mr.C.S.Ravichandran, learned Counsel for the petitioners and Mr.S.Babu, learned Counsel, who takes notice on behalf of the second respondent. By consent of both parties, the present Writ Petition is taken up for final disposal at admission stage.

3.The petitioners have borrowed a sum of Rs.6,00,000/- some time back and the total outstanding amount, as date, even according to the second respondent, is around Rs.8,90,000/-. It is to be noted that the liability, when the demand notice was issued in 2021, was around Rs.6,00,000/-. The learned Counsel for the petitioners states that the petitioners are prepared to pay a sum equivalent to 25% of the total amount due in four monthly instalments.

4.Considering the fact that the first petitioner is a small vendor



WP(MD)No.19736 of 2022

and he states that his business came to a grinding halt during COVID-19, this Court is inclined to show some indulgence. Upon payment of a sum equivalent to 25% of the amount due, the petitioners may be permitted to approach the financial institution for waiver of penal interest or regularization of the loan amount, as may be permissible under the norms. Upon payment of the said sum, the petitioners seek further direction to the respondents to hand over the residential house, which was taken possession by the respondent financial institution pursuant to the impugned order of learned Chief Judicial Magistrate. The learned Counsel for the second respondent has no serious objection.

5.Considering the facts and circumstances of the case, this Court is inclined to dispose of the Writ Petition with the following directions:

(1)The petitioners are permitted to deposit a sum of Rs.55,000/- on or before 23.09.2022, a further sum of Rs.55,000/- on or before 20.10.2022 and a sum of Rs.55,000/- on or before 23.11.2022 and a further sum of Rs.60,000/- on or before 23.12.2022, directly to the second respondent, which shall be kept in a no lien account for time being.

(2)Upon the petitioners pay a sum of Rs.2,25,000/- within a period of four months or earlier, the second respondent shall hand over



WP(MD)No.19736 of 2022

the residential property, which was taken possession by the second respondent, within a period of two weeks thereafter. When possession is handed over, the amount deposited shall be transferred to the loan account.

(3)After making payment as per the direction order of this Court as indicated above, the second respondent shall consider the representation of the petitioners, that may be submitted immediately after the payment of Rs.2,25,000/-.

(4)Till the said representation of the petitioners is considered on merits and copy of the decision is communicated to the petitioners, there shall be no coercive action against the petitioners or the secured asset.

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

[S.S.S.R., J.] [S.S.Y., J.]
25.08.2022

Index : Yes / No

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To

The Chief Judicial Magistrate,
Madurai,
Madurai District Court, Madurai-20.



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W.P.(MD)No.19736 of 2022

S.S.SUNDAR, J.

and

S.SRIMATHY, J.

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W.P(MD)No.19736 of 2022

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(2/2)