



W.P.(MD)No.18215 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2022

CORAM

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

W.P(MD)No.18215 of 2022
and
W.M.P.(MD)No.13295 of 2022

M/s.Chendur Enterprises,
Represented by its Proprietrix,
S.Anusuya,
No.888/2, Courtallam Road,
Piranoor Border,
Senkottai – 627 809.

... Petitioner

Vs.

1.The Debts Recovery Tribunal,
IV Floor, Kalyani Tower,
Melur Road,
Madurai.

2.The Authorized Officer,
Karur Vysya Bank Limited,
Asset Recovery Branch,
R.S.No.170/9, Uthankudi Village,
Near Mattuthavani Bus Stand,
Madurai – 625 107.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India,
praying to issue a Writ of Certiorari, to call for records pertaining to
the impugned E-Auction Sale Notice of the 2nd Respondent dated



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18.07.2022 fixing the date of sale on 18.08.2022, issued under Section 13(4) of the SARFAESI Act, 2002, for the subject properties and quash the same.

For Petitioner : Mr.S.Suresh

For 2nd Respondent : Mr.V.Sukumar
Standing Counsel

* * *

ORDER

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

Challenging the sale notice, fixing the date of auction on 18.08.2022 between 11.00 a.m. and 12.00 noon, issued by the second respondent, the above Writ Petition is filed.

2. Heard Mr.S.Suresh, learned counsel for the petitioner and Mr.V.Sukumar, learned Standing Counsel for the second 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 states that due to severe financial crunch, the petitioner could not make payment as per the payment schedule.



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4. It is admitted that the loan was declared as NPA long back and steps were taken for taking physical possession and sale of property earlier. It is also admitted that the petitioner has challenged the sale notice as well as possession notice earlier.

5. Be that as it may, learned counsel appearing for the petitioner states that the petitioner is prepared to pay 25% of the total outstanding shown as due in the impugned notice, in case this Court grants an order of interim stay. Learned Standing Counsel for the respondent has no serious objection for granting interim order in case the petitioner pays 25% of the outstanding in four monthly instalments.

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) The impugned sale shall be deferred for a period of six months on condition that the petitioner pays a sum of Rs.45,00,000/- (Rupees Forty Five Lakhs only) on or before 30.08.2022, a sum of Rs.45,00,000/- (Rupees Forty Five Lakhs only)



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on or before 30.09.2022, another sum of Rs.45,00,000/- (Rupees Forty Five Lakhs only) on or before 31.10.2022 and a further sum of Rs.45,00,000/- (Rupees Forty Five Lakhs only) on or before 30.11.2022.

(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 three 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 on merits 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 Petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
12.08.2022

Index : Yes / No

sj

To

1.The Debts Recovery Tribunal,
IV Floor, Kalyani Tower,
Melur Road,
Madurai.



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and

S.SRIMATHY, J.

sj

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