



W.P.(MD)No.18968 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2022

CORAM

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

W.P(MD)No.18968 of 2022

and

W.M.P.(MD)Nos.13843 and 13845 of 2022

C.Karthick

... Petitioner

Vs.

1.The Chief Judicial Magistrate,
District Court Buildings,
Madurai District.

2.National Trust Housing Finance Ltd.,
Rep. by Branch Manager,
D.No.141 & 142, SVSK Towers,
2nd Floor, Tallakulam,
Madurai – 625 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order passed by the 1st Respondent dated 16.05.2022 made in Cr.M.P.No.427 of 2022 and quash the same and consequently direct the Respondents to re-deliver the physical possession of the subject property to the petitioner.



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For Petitioner : Mr.M.Arunachalam

For 2nd Respondent : Mr.S.Babu
Standing Counsel

* * *

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.427 of 2022, dated 16.05.2022, the above Writ Petition is filed.

2. Heard Mr.M.Arunachalam, learned counsel for the petitioner and Mr.S.Babu, 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. As per the impugned order, a sum of Rs.16,59,081.50 is due as on 29.04.2022. The petitioner admitted availing of a housing loan of a sum of Rs.9,95,000/- in 2017.

4. Learned counsel appearing for the petitioner submits that non-payment of loan amount was during COVID – 19



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pandemic and that the petitioner has regained his business after difficulties. It is the case of the petitioner that he is prepared to pay a sum of Rs.3,00,000/- even today and the learned counsel for the petitioner has also produced the Demand Draft for Rs.3,00,000/- drawn in favour of the respondent financial institution.

5. Learned counsel for the petitioner further states that on further payment of Rs.3,00,000/-, the respondent financial institution may be directed to hand over physical possession to the petitioner and upon such payments, the respondent financial institution may also be directed to consider the representation of the petitioner to be filed for waiver of penal interest or for One Time Settlement or for restructuring the loan or for any other concession.

6. The request of the petitioner's counsel is fair and the petitioner has now come forward to reduce the liability by 40% and he has also drawn a Demand Draft for Rs.3,00,000/- in favour of the respondent financial institution and undertakes to pay a further sum of Rs.3,00,000/-, if he is permitted to reside in the secured asset without affecting the respondent's interest of the security.



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7. 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 petitioner is directed to deposit the Demand Draft, which is drawn for a sum of Rs.3,00,000/- (Rupees Three Lakhs only) in favour of the respondent financial institution, to the respondent financial institution within a period of two days from the date of receipt of a copy of this order.

(ii) The petitioner is also directed to deposit a further sum of Rs.3,00,000/- (Rupees Three Lakhs only) directly to the respondent financial institution.

(iii) The respondent financial institution is directed to re-deliver the physical possession, which is now taken pursuant to the impugned order, to the petitioner within a period of one week from the date of the second payment.

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



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(v) If the petitioner makes payment as indicated above, he may approach the second respondent and submit a representation, within a period of two weeks from the payment of second 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 as per the guidelines of Reserve Bank of India or the norms applicable to the respondent financial institution.

(vi) The respondent financial institution shall consider the same and pass appropriate orders in accordance with law.

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

8. 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.]
22.08.2022

Index : Yes / No
sj



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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

sj

To

1.The Chief Judicial Magistrate,
District Court Buildings,
Madurai District.

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