



W.P.(MD)No.18894 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2022

CORAM

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

W.P(MD)No.18894 of 2022
and
W.M.P.(MD)Nos.13790 and 13792 of 2022

G.Devaraj

... Petitioner

Vs.

1.The Chief Judicial Magistrate,
Kanyakumari District at Nagercoil.

2.The Authorised Officer,
Union Bank of India, Nagercoil Branch,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the order of the first respondent in Crl.M.P.No.909 of 2022, dated 10.05.2022 and the sale notice of the second respondent, dated 11.08.2022 and to quash the same.

For Petitioner :Mr.S.Pillai Monicantan
For R2 :Mr.N.Dilip Kumar



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ORDER

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

This Writ Petition is filed challenging the proceedings of the learned Chief Judicial Magistrate, in CrI.M.P.No.909 of 2022, dated 10.05.2022 in an application filed by the respondent bank under Section 14 of SARFAESI Act as well as the sale notice issued by the second respondent, dated 11.08.2022.

2.Heard Mr.S.Pillai Monicantan, learned Counsel for the petitioner and Mr.N.Dilip Kumar, learned Counsel, who takes notice on behalf of second respondent. By consent of both parties, the present Writ Petition is taken up for final disposal at admission stage.

3.It is not in dispute that the petitioner has borrowed a huge sum of Rs.1.57 crores and odd from the respondent bank and that the loan account was declared as Non Performing Asset(NPA) in 2019. The bank initiated proceedings under Section 14 of SARFAESI Act and thereafter, issued the impugned sale notice for selling the secured asset.

4.As per the sale notice, the amount due is Rs.77,17,048.53/- as on 11.08.2022. The reserve price fixed for the secured asset is around Rs.2 crores, even as per the sale notice.



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5.The learned Counsel for the petitioner states that the entire due as on 11.08.2022 will be settled within six months. He further states that pursuant to a previous sale notice, the petitioner has approached the Debts Recovery Tribunal and the Tribunal while staying the sale, imposed a condition on the petitioner to remit a sum of Rs.60,00,000/-. The learned Counsel for the petitioner further submits that though the petitioner could not comply with the said condition within the prescribed period, has paid a sum of Rs.60,50,000/- on various dates and reduced the total liability by 40%. Though the amount was not deposited within the time prescribed by the Tribunal, the reduction of liability substantially pursuant to the interim order inspires the Court to show some indulgence.

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

(1)The respondent bank shall not proceed further with the sale or take physical possession of the secured asset on condition that the petitioner pays a sum of Rs.20,00,000/- on or before 18.10.2022. Out of a sum of Rs.20,00,000/-, the petitioner shall remit a sum of Rs.7,00,000/- on or before 30.08.2022. The petitioner is directed to pay the remaining



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sum of Rs.13,00,000/- on or before 18.10.2022.

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(2)The petitioner shall remit the balance amount on or before 31.03.2023 by way of monthly instalments by paying a sum not less than Rs.10,00,000/- commencing from 18.11.2022.

(3)In case the petitioner fails to pay any one of the instalments, in the manner directed above, it is open to the respondent bank to proceed further in accordance with law ignoring this order.

(4)It is open to the petitioner to submit a representation seeking waiver of penal interest or for other concession. In case the petitioner is eligible for any concession by way of One Time Settlement or other benefits, as per the guidelines of Reserve Bank of India or the norms applicable to the respondent bank, the respondent bank shall consider the same and pass appropriate orders on merits and in accordance with law.

7.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.]
18.08.2022

Index : Yes / No
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To

The Chief Judicial Magistrate,
Kanyakumari District at Nagercoil.



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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

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