



W.P.(MD)No.19361 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2022

CORAM

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

W.P.(MD)No.19361 of 2022
and
W.M.P.(MD)Nos.14128 of 2022

Rajapandi

... Petitioner

Vs.

1.The Authorized Officer,
(Under SARFAESI Act),
Axis Bank,
RAC 4th Floor, Arcot Plaza,
Old No.38, New No.165, Arcot Road,
Kodambakkam,
Chennai – 600 024.

2.The Branch Manager,
Axis Bank,
No.61/4B 1st Floor, Pattu Arcate,
Bye-pass Road, Ram Nagar,
Madurai – 625 010.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, to call for records of the impugned possession notice dated 18.06.2018, passed by the 1st respondent and quash the same as illegal, illegal, arbitrary and unsustainable.



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For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents : Mr.P.Pethu Rajesh
Standing Counsel

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ORDER

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

Challenging the possession notice dated 18.06.2018, taking symbolic possession of the Secured Asset, the above Writ Petition is filed.

2. Heard Mr.D.S.Haroon Rasheed, learned counsel for the petitioner and Mr.P.Pethu Rajesh, learned Standing Counsel for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Though the impugned notice was issued in the year 2018, the petitioner has challenged it after five years and hence, this Court is inclined to dismiss the Writ Petition on the ground of laches. However, learned Standing Counsel for the respondent Bank submitted that he has no objection for entertaining the Writ Petition, if the petitioner is directed to pay substantial amount towards the discharge of liability.



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4. It is admitted that as on date, the total outstanding is around Rs.12,20,000/-. Learned counsel appearing for the petitioner submits that the petitioner is prepared to pay 25% of the total outstanding as on date within three months.

5. Considering the various facts and circumstances and the submissions of learned counsel on either side, 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 respondent bank is directed not to initiate any coercive action till the representation of the petitioner to be made is considered, provided the petitioner pays a sum of Rs.1,00,000/- (Rupees One Lakh only) on or before 23.09.2022, a sum of Rs. 1,00,000/- (Rupees One Lakh only) on or before 25.10.2022 and a further sum of Rs.1,05,000/- (Rupees One Lakh and Five Thousand only) on or before 25.11.2022.

(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 payments as indicated



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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.

6. 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.]
24.08.2022

Index : Yes / No

sj



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and

S.SRIMATHY, J.

sj

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