



W.P.(MD)No.19518 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:24.08.2022

CORAM

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

W.P.(MD)No.19518 of 2022
and
W.M.P.(MD)No.14249 of 2022

C.S.Pratheesh

... Petitioner

Vs

1.The Authorized Officer,
ICICI Bank Ltd.,
52-53, South Masi Street,
Madurai – 625 001.

2.The Branch Manager,
ICICI Bank,
99, Big Street,
Tirupparankundram,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari to call for the records pertaining to the pre-sale notice, dated 04.07.2022 issued by the first respondent under SARFAESI Act, 2002 and to quash the same as illegal.

For Petitioner : Mr.K.Esakki

For Respondents : Mr.J.Alaguram Jothi,
Standing Counsel



W.P.(MD)No.19518 of 2022

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ORDER

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

Challenging a notice which is titled as a pre-sale notice, dated 04.07.2022, issued by the first respondent, the above writ petition is filed.

2. Heard Mr.K.Esakki, learned counsel for the petitioner and Mr.J.Alaguram Jothi, 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. The fact that the petitioner borrowed a huge sum and that, the loan account of the petitioner was declared as NPA long back, are not in dispute. Notice taking symbolic possession was issued on 28.06.2022. Though it is stated that the petitioner approached the respondent bank for One Time Settlement proposal, the petitioner contended that the first respondent has threatened the petitioner to vacate the house and issued the impugned pre-sale notice, dated 03.07.2022.



W.P.(MD)No.19518 of 2022

4. Though the petitioner has committed some default, the bonafides

of the petitioner cannot be doubted having regard to the factual circumstances.

It is admitted by the learned standing counsel for the respondent bank that the due as on date is Rs.3.81 crores. However, the learned counsel for the petitioner states that the actual due would be reduced considerably if the penal interest and other charges are not levied by the respondent bank.

5. Be that as it may, the learned counsel appearing for the petitioner states that the petitioner is prepared to deposit 25% of the amount due as on date in case no coercive action is taken against the petitioner and his property and the bank is prepared to negotiate with the petitioner for One Time Settlement or for other concessions.

6. Considering the fact that the petitioner is willing to reduce the total outstanding by 25% without touching the secured asset, this Court is inclined to dispose of the Writ Petition in the following lines:-

(i) The respondent bank shall not initiate any coercive action either for taking possession or for sale of secured asset, provided the petitioner pays a sum of Rs.20,00,000/- on or before 23.09.2022, a sum of Rs.20,00,000/- on or



W.P.(MD)No.19518 of 2022

before 24.10.2022, a sum of Rs.20,00,000/- on or before 23.11.2022 and a further sum of Rs.20,00,000/- on or before 23.12.2022.

(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 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.



W.P.(MD)No.19518 of 2022

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.]
24.08.2022

Index : Yes / No

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W.P.(MD)No.19518 of 2022

S.S.SUNDAR, J.

and

S.SRIMATHY, J.

pm

W.P(MD)No.19518 of 2022

24.08.2022