



W.P.(MD)No.19867 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2022

CORAM

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

W.P.(MD)No.19867 of 2022
and
W.M.P.(MD)No.14460 of 2022

- 1.M/s.S.S.Trader,
4/14A, Manthoppu,
Madathattuvilar,
Villukkuri,
Nagercoil,
Kanyakumari District.
- 2.M.Arul Sebastin (Proprietor),
S/o. Mariackon,
4/14A, Manthoppu,
Madathattuvilar,
Villukkuri,
Nagercoil,
Kanyakumari District.

... Petitioners

Vs.

The Authorized Officer,
Canara Bank,
Nagercoil College Road Main Branch,
Nagercoil,
Kanyakumari District.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorari, to call for records relating to the impugned sale notice dated 03.08.2022 of the respondent under SARFAESI Act and quash the same.



W.P.(MD)No.19867 of 2022

For Petitioners : Mr.R.Russel Raj
For Respondent : Mr.N.Dilipkumar
Standing Counsel

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ORDER

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

Challenging the Sale Notice, dated 03.08.2022, fixing the date of auction on 07.09.2022 between 12.30 p.m. to 1.30 p.m., the above Writ Petition is filed.

2. Heard Mr.R.Russel Raj, learned counsel for the petitioners and Mr.N.Dilipkumar, learned Standing Counsel for the respondent. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. As per the sale notice, the total outstanding as on 17.04.2021 is Rs.12,25,732.78. Learned counsel appearing for the petitioners submits that the petitioners are prepared to pay a sum of Rs.3,15,000/- within a period of three months in case the sale is deferred by the order of this Court.



W.P.(MD)No.19867 of 2022

4. Considering the various facts and circumstances and the submissions of learned counsel on either side, this Court is of the view that the petitioners 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 to defer the sale, provided the petitioners pay a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) on or before 12.30 p.m. on 07.09.2022, a sum of Rs.1,25,000/- (Rupees One Lakh and Twenty Five Thousand only) on or before 10.10.2022 and a further sum of Rs.1,25,000/- (Rupees One Lakh and Twenty Five Thousand only) on or before 10.11.2022.

(ii) In case the petitioners commit 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 petitioners make payments as indicated above, they 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 as per the guidelines of Reserve Bank of India or the norms applicable to the respondent bank.



W.P.(MD)No.19867 of 2022

(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 petitioners and communicate the decision taken to the petitioners, the respondent bank shall not initiate any coercive action against the petitioners.

5. 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.]
26.08.2022

Index : Yes / No
sj



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W.P.(MD)No.19867 of 2022

S.S.SUNDAR, J.

and

S.SRIMATHY, J.

sj

W.P(MD)No.19867 of 2022

26.08.2022