



W.P.(MD)No.20114 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2022

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

W.P(MD)No.20114 of 2022
and
W.M.P.(MD)No.14632 of 2022

1.M.William
2.Russel Raj

... Petitioners

Vs.

1.The Authorized Officer,
Bank of Baroda,
Padmanabha Commercial Complex,
Opp.New Bus Stand,
Market Road,
Marthandam,
Kanyakumari District.

2.The Authorized Officer,
Bank of Baroda,
Padmanabha Commercial Complex,
Opp.New Bus Stand,
Market Road,
Marthandam,
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 Crl.M.P.No.1175 of 2022 dated 01.08.2022 pending on the file of the Chief Judicial Magistrate, Nagercoil and to quash the same as illegal.



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For Petitioners :Mr.N.Kamesh
For Respondents :Mr.Pala Ramasamy
Standing Counsel

ORDER

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

Challenging the order of the learned Chief Judicial Magistrate, Kanyakumari District, Nagercoil, in Crl.M.P.No.1175 of 2022, dated 01.08.2022 filed by the respondent herein under Section 14 of the SARFAESI Act, this Writ Petition has been filed.

2.Heard Mr.N.Kamesh, learned Counsel for the petitioners and Mr.Pala Ramasamy, learned Standing Counsel, who takes notice on behalf of respondents. By consent of both parties, the present Writ Petition is taken up for final disposal at the stage of admission itself.

3. The learned Counsel for the petitioners points out several adverse conditions and the reasons explaining, why the petitioners could not make periodical payments. Though it is stated that the petitioners borrowed a sum of Rs.57,75,000/-, it is admitted that the liability as on date is around a sum of Rs.51,21,000/-, which implies that the petitioner has paid substantial amount to reduce the liability. He further submits



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that the petitioners are prepared to deposit 20% of total outstanding amount as on date in three equal monthly instalments.

4.The learned Standing Counsel for the respondent bank has no serious objection for the proposal made by the petitioners.

5.Though it is admitted that the petitioners have failed to make payment within the time given by the respondent bank, the fact that the petitioners had paid a sum of Rs.9,50,000/-, when the matter was pending before the Debt Recovery Tribunal in the SARFAESI Application, challenging the previous notice and the liability also as on date is reduced considerably, cannot be disputed. Considering the grievance of the petitioners, this Court is inclined to dispose of the Writ Petition in the following lines:

(1)The respondent bank shall defer the sale proceedings pursuant to the order impugned in the present Writ Petition, provided the petitioners shall pay a sum of Rs.8,00,000/- in four monthly equal instalments commencing from 29.09.2022.

(2)In case the petitioners fail 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.



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(3)In the event of depositing the amount as directed above, the petitioners are permitted to submit a representation to the respondent bank either for waiver of penal interest or One Time Settlement or for restructuring the loan and other concession, as may be permissible under the guidelines of Reserve Bank of India or the norms applicable to the respondent bank and the respondent bank shall pass appropriate orders in accordance with law.

(4)Till an order is passed on the representation of the petitioners and the same is communicated to the petitioners, the respondent bank shall not initiate any coercive action against the petitioners.

6.With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
29.08.2022
(2/2)

Index : Yes / No

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and

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