



W.P.(MD)No.20090 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2022

CORAM

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

W.P(MD)No.20090 of 2022
and
W.M.P.(MD)Nos.14614 and 14616 of 2022

F.Jegan

... Petitioner

Vs.

The Authorised Officer,
State Bank of India,
Thengapattinam Branch, Kanyakumari District.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records of the culminating into into the order in the possession notice, dated 18.05.2022 under Section 13(4) of SARFAESI Act, passed by the respondent and to set aside the same as illegal.

For Petitioner :Mr.N.S.Ramakrishna Dass

For Respondent :Mr.R.Pandivel



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ORDER

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

This Writ Petition is filed challenging the impugned possession notice issued by the respondent, dated 18.05.2022 under Section 13(4) of SARFAESI Act.

2.Heard Mr.N.S.Ramakrishna Dass, learned Counsel for the petitioner and Mr.R.Pandivel, learned Counsel, who takes notice on behalf of the respondent. By consent of both parties, the present Writ Petition is taken up for final disposal at admission stage.

3.It is admitted that the petitioner is still in possession and only symbolic possession is taken by way of impugned order. It is stated that the petitioner is a proprietor of M/s.Hi Tech Interlock and Designer Tiles and borrowed loan from the respondent bank for developing his business. It is stated that the loan was created by way of mortgage in respect of four properties. The petitioner states that non payment of the regular monthly instalments was due to COVID-19 pandemic and other adverse conditions affecting the business of the petitioner. The liability, as on date, as per the statement of the learned Standing Counsel for the



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respondent bank, is around Rs.29,40,918/-. The learned Counsel for the petitioner states that the petitioner is prepared to deposit 25% of the outstanding within four months.

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

(1)The respondent bank shall defer the sale proceedings as per the impugned notice provided the petitioner pays a sum of Rs.2,00,000/- on or before 29.09.2022, a further sum of Rs.2,00,000/- on or before 28.10.2022, a further sum of Rs.2,00,000/- on or before 29.11.2022 and a further sum of Rs.1,50,000/- on or before 29.12.2022.

(2)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.

(3)In case the petitioner deposits the amount as directed above, the petitioner is 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 petitioner



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and the same is communicated to the petitioner, the respondent bank shall not initiate any coercive action against the petitioner.

5. 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.]
29.08.2022

Index : Yes / No

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and

S.SRIMATHY, J.

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