



W.P.(MD)No.20190 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.20190 of 2022
and
W.M.P.(MD)No.14682 of 2022

M.Mumtaj Begum

... Petitioner

Vs.

1.The Chief Judicial Magistrate,
District Court Buildings,
Trichy District.

2.Sundaram Home Finance Limited,
No.C-56, PLA's Towers, 2nd Floor,
4th Cross, Thillai Nagar Main Road,
Trichy-620 018, Rep. by its Branch Manager,
Sivabalan

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records of the impugned order passed by the 1st respondent dated 12.08.2019 made in Cr.M.P.No.2860 of 2019 and quash the same.

For Petitioner : Mr.M.Arunachalam
For R2 : Mr.M.Senthil Kumar,
Standing Counsel.



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ORDER

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

Challenging the order of the 1st respondent made in Crl.M.P.No.2860 of 2019 dated 12.08.2022, which was filed by the respondent bank under Section 14 of the SARFAESI Act, the present Writ Petition has been filed.

2.Heard Mr.M.Arunachalam, learned counsel for the petitioner and Mr.M.Senthil Kumar, learned Standing Counsel, who takes notice on behalf of 2nd respondent. By consent of both parties, the present Writ Petition is taken up for final disposal at the stage of admission itself.

3.Though the respondent Bank is unable to give the statement, as to the total due of the petitioner as on date, it is admitted that the respondent bank has agreed to receive a sum of Rs.40 lakhs earlier towards the settlement of all the dues. It is also admitted that the petitioner had already paid a sum of Rs.16 lakhs, pursuant to the One Time Settlement proposal and that the liability is substantially reduced compared to the value of the secured assets.



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4.The learned counsel for the petitioner seeks indulgence of this Court to consider a fresh proposal that may be submitted by the petitioner.

5.The learned counsel for the respondent bank, however, has no serious objection for considering the representation of the petitioner, regarding One Time Settlement. Since the petitioner has already paid a sum of Rs.16 lakhs, pursuant to the One Time Settlement proposal and reduced the liability considerably, this Court deems it fit to direct the petitioner to deposit a sum of Rs.4 lakhs, so as to direct the respondent to consider the representation of the petitioner for fresh One Time Settlement.

6.Considering the arguments advanced by the learned counsel on either side, this Court is now inclined to dispose of the Writ Petition in the following lines:-

(1) The respondent bank shall defer the proceedings as per the order impugned herein on condition that the petitioner shall pay a sum of Rs.4,00,000/- within a period of four weeks from today (i.e.,29.08.2022).



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(2)In case the petitioner fails to pay the amount 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 fresh representation, within a period of two weeks from the date of such payment so made 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.

(4)The respondent Bank shall consider the representation of the petitioner and communicate the decision to the petitioner. Till such time, the respondent bank is restrained from taking any coercive action against the petitioner.

7.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

Index : Yes / No
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