



W.P.(MD)Nos.20525 and 20526 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2022

CORAM

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

W.P.(MD)Nos.20525 and 20526 of 2022
and
W.M.P.(MD)Nos14866 and 14869 of 2022

W.P.(MD)No.20525 of 2022:-

Udhayakumar

... Petitioner

Vs.

Tamilnadu Mercantile Bank,
represented by its Authorised Officer,
Pudukottai-622 001.

... Respondent

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 impugned demand notice, dated 26.07.2022 issued by the respondent bank under Section 13(2) of SARFAESI Act, and to quash the same as illegal.

For Petitioner :Mrs.A.Banumathy

For Respondent :Mr.Pethurajesh



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W.P.(MD)No.20525 of 2022:-

Mathivanan

... Petitioner

Vs.

Tamilnadu Mercantile Bank,
represented by its Authorised Officer,
Pudukottai-622 001.

... Respondent

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 impugned demand notice, dated 26.07.2022 issued by the respondent bank under Section 13(2) of SARFAESI Act, and to quash the same as illegal.

For Petitioner :Mrs.A.Banumathy

For Respondent :Mr.Pethurajesh

COMMON ORDER

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

These Writ Petitions have been filed for issuance of Writ of Certiorari to quash the impugned demand notices, dated 26.07.2022, respectively.

2.Heard Mrs.A.Banumathy, learned Counsel for the petitioner in both cases and Mr.Pethurajesh, learned Counsel, who takes notice on behalf of the respondent in both cases. By consent of both parties, the present Writ Petitions are taken up for final disposal at admission stage, as the issues involved in these Writ Petitions are one and the same.



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3.In W.P.(MD)No.20525 of 2022, the amount due from the petitioner is around Rs.6,09,895, as on 30.06.2022. Similarly, in W.P.(MD)No.20526 of 2022, the amount due from the petitioner is around Rs.4,83,686/-. The learned Counsel for the petitioner submits that the respondent had also filed a suit for recovery of money against the petitioners and it is now pending. It is the grievance of the petitioners that the respondent bank has initiated proceedings under the SARFAESI Act by issuing demand notices. The learned Counsel for the petitioner in these cases states that the petitioners are prepared to pay a sum of Rs. 1,75,000/-, in case they are permitted to approach the respondent bank for a possible settlement under One Time Scheme or for other concession.

4.Even though the Writ Petition is not normally entertained challenging the demand notice, having regard to the fact that the respondent has initiated recovery proceedings by invoking the provisions of SARFAESI Act, where the suit is pending and though it is permissible in law, the petitioners having expressed their intentions to settle the due with the respondent bank by availing the benefit of One Time Settlement scheme or other concession, that may be permissible as per the guidelines of Reserve Bank of India, this Court is inclined to dispose of the Writ Petitions in the following lines:



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(1)The petitioners in both cases are permitted to pay a sum of Rs.1,75,000/- jointly within a period of four weeks from the date of receipt of a copy of this order along with the representation as well as the proposal for One Time Settlement or for waiver of penal interest or for regularisation of loan account, that may be permissible as per the guidelines of the Reserve Bank of India or the norms applicable to the respondent bank.

(2)In the event of the petitioners submitting the representation after making payment along with the proposal within the time indicated above, the respondent bank is directed to consider the representation of the petitioner and pass appropriate orders. Till such time the respondent bank pass final orders and the decision is communicated to the petitioner, the respondent bank shall not take any coercive action against the petitioners.

5.With the above directions, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [S.S.Y., J.]
01.09.2022

Index : Yes / No
cmr



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S.S.SUNDAR, J.

and

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