

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)No.20665 of 2022
and
W.M.P.(MD)Nos.14987 of 2022

Anusha

... Petitioner

Vs.

The Authorized Officer,
Bank of Baroda,
97/6, Katcheri Road,
Virudhunagar – 626 006.

... 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 impugned possession notice dated 16.08.2022, issued by the respondent under SARFAESI Act and Rule 8(1) of the Security Interest (Enforcement) Rules and quash the same.

For Petitioner : Mr.A.Sivasubramanian

For Respondent : Mr.P.Pethu Rajesh
Standing Counsel

* * *

ORDER

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

Challenging the possession notice dated 16.08.2022, issued by the respondent under Rule 8(1) of the Security Interest (Enforcement) Rules, the above Writ Petition is filed.

2. Heard Mr.A.Sivasubramanian, learned counsel for the petitioner and Mr.P.Pethu Rajesh, 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. It is admitted that as on 31.03.2022, the total outstanding is Rs.6,29,184.49/-. Learned counsel appearing for the petitioner submits that the petitioner is prepared to pay 25% of the total outstanding in four monthly instalments to reduce the liability.

4. Considering the various facts and circumstances and the submissions of learned counsel on either side, this Court is of the view that the petitioner 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 not to initiate any coercive action pursuant to the impugned possession notice, provided the petitioner pays a sum of Rs.40,000/- (Rupees Forty Thousands only) on or before 30.09.2022, a sum of Rs.40,000/- (Rupees Forty Thousands only) on or before 31.10.2022, a sum of Rs.40,000/- (Rupees Forty Thousands only) on or before 30.11.2022 and a further sum of Rs.40,000/- (Rupees Forty Thousands only) on or before 30.12.2022.

(ii) In case the petitioner commits 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 petitioner makes payments as indicated above, she 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 under the guidelines of Reserve Bank of India or the norms applicable to the respondent bank.

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

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.]
01.09.2022

Index : Yes / No

sj

W.P.(MD)No.20665 of 2022

S.S.SUNDAR, J.

and

S.SRIMATHY, J.

sj

W.P(MD)No.20665 of 2022

01.09.2022