



W.P.(MD) No.21861 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.21861 of 2022

and

W.M.P.(MD)No.16019 of 2022

V.Pon

... Petitioner

-Vs-

State Bank of India,

Rep. through its Lead District Manager,

Vadiveesvaram Branch (05599),

No.81, Police Station Road,

Meenakshipuram, Nagercoil-629 001,

Kanyakumari District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondent not to take coercive steps in

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pursuant to the notice of possession dated 30.12.2021 and the paper publications thereof.

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondent : Mr.R.Pandivel,

Standing Counsel

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition is filed, seeking issuance of a Writ of Mandamus, to direct the respondent not to take any coercive steps pursuant to the possession notice dated 30.12.2021 and the paper publications thereof.

2.According to the petitioner, he borrowed a sum of Rs.4,31,000/- (Rupees Four Lakhs and Thirty One Thousand Only) from the respondent Bank in the year 2008 and monthly instalment was fixed at Rs.4,698/- (Rupees Four Thousand Six Hundred and Ninety Eight Only). He has repaid the entire loan amount to the respondent Bank on 15.12.2021. However, the respondent has invoked the provisions under SARFAESI Act and issued possession notice dated 30.12.2021, alleging the non-remittance of the balance amount of Rs.2,81,601/-. After the said possession notice served to the petitioner, the respondent Bank

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seized the housing property of the petitioner on 16.07.2022. Therefore, the petitioner has challenged the said possession notice before the Debts Recovery Tribunal, Madurai on 26.02.2022 in S.A.No.233 of 2022. Since there is no regular Presiding Officer in Debts Recovery Tribunal, Madurai, the petitioner has approached this Court with the aforesaid prayer.

3.The learned Standing Counsel for the respondent Bank submitted that as of now, total outstanding amount comes to Rs.3,90,000/- (Rupees Three Lakhs and Ninety Thousand Only), there is a Rinn Samadhana Scheme for granting concession to the borrowers. The petitioner can also approach the Bank under the aforesaid scheme and the Bank will consider and grant concession to the petitioner. According to him, if the petitioner accepts the said scheme, he has to pay a sum of Rs.2,90,000/- (Rupees Two Lakhs and Ninety Thousand Only) by deducting a sum of Rs.1,00,000/- (Rupees One Lakh Only) as concession, for which, the learned counsel for the petitioner submitted that the petitioner is doing fruits selling business and earning meagre amount for maintenance of the family, hence, he could not able to pay such amount to the respondent Bank.



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4.In view of the above, since the petitioner is not inclined to avail the concession given by the respondent Bank, we are not inclined to entertain this Writ Petition. Accordingly, this Writ Petition stands dismissed with liberty to the petitioner to workout his remedy before the appropriate forum. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]
19.12.2022

Index : Yes / No
Internet : Yes / No

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