



W.P.(MD) No.25038 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2022

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE R.MAHADEVAN**

**W.P.(MD) No.25038 of 2022
and
W.M.P(MD)No.19140 of 2022**

V.Selvathasi Kasper

... Petitioner

-VS-

1.The Authorised Officer,
State Bank of India,
RACC Kalkulam,
10/31, First Floor,
Opposite Court Complex,
Eraniel Road,
Thuckalay and Post,
Kanyakumari District.

2.The Branch Manager,
State Bank of India,
Kandanvilai Branch,
18/46/24, 25, 26, Thomas Complex,
Library Junction,
Kandanvilai Post,
Kanyakumari District.

... Respondents



W.P.(MD) No.25038 of 2022

WEB COPY

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the possession notice of the first respondent, dated 15.09.2022 and quash the same.

For Petitioner : Mr.CKM.Appaji

For Respondents : Mr.T.Thevan
Standing Counsel

ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

V.Selvathasi Kasper, W/o.Kasper, having borrowed a sum of Rs,10,00,000/- from the second respondent bank, has committed default in paying the regular instalments. Hence, the first respondent issued a demand notice, dated 11.07.2022 under Section 13(2) of the SARFAESI Act, calling upon the petitioner to pay a sum of Rs.6,23,921/- within 60 days from the date of the notice, failing which possession will be taken and the petitioner's account was classified as Non-Performing Assets on 04.07.2022. Thereafter, the first respondent issued possession notice dated 15.09.2022 under Section 13(4) of the SARFAESI Act and thereby took possession of the property. Aggrieved by the same, the petitioner has come to this Court.



W.P.(MD) No.25038 of 2022

WEB COPY

2. Mr.T.Thevan, learned Standing Counsel, takes notice for the respondents. By consent of both the parties, the Writ Petition is taken up for final disposal at the time of admission itself.

3. Learned counsel appearing for the petitioner submitted that since the Debts Recovery Tribunal, Madurai is not functioning, except one day in a week, the petitioner is compelled to come before this Court by filing the present Writ Petition under Article 226 of the Constitution of India. He further submitted that the petitioner is prepared to pay a sum of Rs.1,50,000/- within one month and the balance amount will be paid within five consecutive equal monthly instalments. Therefore, the petitioner may be permitted to pay the entire outstanding amount in the aforesaid terms.

4. Although an objection has been raised by the learned counsel appearing for the respondents - Bank, considering the undertaking given by the learned counsel appearing for the petitioner that he would pay a sum of Rs.1,50,000/- within one month and the balance amount will be paid within five months



W.P.(MD) No.25038 of 2022

thereafter, the Writ Petition is disposed of directing to the petitioner to pay a sum of Rs.1,50,000/- on or before 03.12.2022 and the remaining outstanding amount in five consecutive equal monthly instalments. The first instalment shall be paid on or before 10.01.2023 and the subsequent four instalments shall be paid on or before 10th day of every English Calendar month, until the entire payment is made. If the petitioner fails to pay any one of the instalments, it is open to the respondents – Bank to proceed further in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

[T.R., A.C.J.] [R.M.D., J.]
03.11.2022

Index : Yes / No
Internet : Yes / No
ps/vsm



W.P.(MD) No.25038 of 2022

WEB COPY

To:

- 1.The Authorised Officer,
State Bank of India,
RACC Kalkulam,
10/31, First Floor,
Opposite Court Complex,
Eraniel Road,
Thuckalay and Post,
Kanyakumari District.

- 2.The Branch Manager,
State Bank of India,
Kandanvilai Branch,
18/46/24, 25, 26, Thomas Complex,
Library Junction,
Kandanvilai Post,
Kanyakumari District.



WEB COPY



W.P.(MD) No.25038 of 2022

THE HON'BLE THE ACTING CHIEF JUSTICE
and
R.MAHADEVAN, J.

ps/vsm

W.P.(MD) No.25038 of 2022

03.11.2022