BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2022

CORAM:

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

W.P.(MD) No.25033 of 2022
and
W.M.P.(MD)Nos.19128 and 19129 of 2022

Santhi ... Petitioner

-vs-

1.The Regional Director,
Reserve Bank of India,
16, Rajaji Salai,
Fort Glacis,
Chennai – 600 001.

2.The Authorized Officer,
M/s. Equitas Small Finance Bank Ltd.,
4th Floor, Phase-II, Spencor Plaza,
No.769, Annasalai, Chennai – 600 002.

3.The Branch Manager,
M/s. Equitas Small Finance Bank Ltd.,
Bodi, Theni District.

4.M.Murugan,
S/o. Not known,
Advocate Commissioner,

Lawyers' Chamber,
Theni Bar Association,
District Court Campus,
Theni, Theni District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned order passed by the Chief Judicial Magistrate Court, Theni, Theni District in Cr.M.P.No.795 of 2022 dated 26.08.2022, and quash the same and consequently direct the Respondents 2 and 3 to receive the entire outstanding loan amount in installments from the petitioner.

For Petitioner	:	Mr.R.Murugappan
For Respondent Nos.2 & 3	:	Mr.R.M.Ajay Parthiban Standing Counsel

ORDER

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

Santhi W/o.Alagesan, having borrowed a sum of Rs.2,50,000/- with 180 equated monthly installments with agreed interest from the respondent Bank, executed a registered Memorandum of Title Deeds in favour of the respondent Bank. On the basis of the registered Memorandum of Deposit of Title Deeds, the respondent Bank has also sanctioned the loan for a sum of Rs.2,50,000/- to the petitioner vide A/c.No.SEIBTNI0191453. Subsequently, the petitioner has committed default. Therefore, the petitioner was repeatedly called upon to repay the dues, but finding no response, on 04.06.2021, the respondent Bank has classified the petitioner's loan account as Non Performing Asset within the meaning of Section 2(o) of the SARFAESI Act. Thereafter, on 19.06.2021, a notice under Section 13(2) of the SARFAESI Act has been issued, calling upon the petitioner to repay a sum of Rs.2,93,763/- as on 05.06.2021. As there was no response, the respondent Bank have also moved Cr.M.P.No.795 of 2022 before the Chief Judicial Magistrate, Theni, under Section 14 of the Act, to pass a suitable order, enabling the respondent Bank to take physical possession of the secured asset. The learned Chief Judicial Magistrate, Theni, also finding merits on the said application, allowed the same by order dated 26.07.2022. It is, at this stage, the borrower/petitioner has come to this Court.

2. Learned counsel appearing for the petitioner impressed upon this Court to entertain the Writ Petition on two grounds. Firstly, it is stated that the Debts Recovery Tribunal, Madurai, is functioning only on every Fridays.

Secondly, the petitioner to show her *bona fide,* is prepared to pay 20% of the outstanding amount within a period of four weeks from today and the balance outstanding amount in four equated monthly installments with the gap of one month.

3. Learned counsel for respondent Bank submitted that the total outstanding amount as on date is at Rs.4,23,413/- and therefore, requested us not to interfere with the impugned order.

4. Considering the fact that the petitioner is only a daily wager and she undertakes to pay 20% of the total outstanding amount within one month from today with a further promise to pay the balance outstanding amount in four equated monthly installments thereafter, we dispose of the Writ Petition directing the petitioner to pay 20% of the total outstanding amount i.e., Rs.84,683/- on or before 02.12.2022. Thereafter, the petitioner shall pay the balance outstanding amount in four consecutive equal monthly installments. The first installment shall be paid on or before 02.01.2023 and the remaining three installments shall be paid on or before the second day of every English Calendar month, until the

entire payment is made. Needless to mention that if the petitioner commits any default in any one of the installments, it is open to the respondent Bank to proceed against the property of the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

[T.R., A.C.J.] [R.M.D., J.]
04.11.2022

Index : Yes / No
Internet :Yes / No
bala/smn2

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

bala/smn2

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