



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.12.2022**

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)NO.26525 OF 2022
and
W.M.P(MD)No.20707 of 2022**

M/s.Angel Bakery,
represented by its Proprietor S.Sekhar,
Son of Sri Rajamony,
No13/8-A, B,C,Karungal Road,
Thickanamcode,
Kanyakumari District.

:Petitioner

.VS.

1.The Authorized Officer,
CSB Bank Limited,
Assets Recovery Branch,
Second Floor, Shiva Complex,
No.54, Old Post Office Road,
Coimbatore – 641 018.

2.The Branch Manager,
CSB Bank, Nagercoil Branch,
Nagercoil.

3.Abishek A.L.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the first respondent to accept the Petitioner's consent regarding the payment of interest for the amount deposited by the third



respondent and thereby direct the respondents 1 and 2 to repay the amount deposited by the third respondent pursuant to the sale dated 17.09.2022 as per the direction in W.P(MD)No.13454 of 2022.

For Petitioner	:Mr.G.Cenil
For Respondents 1and 2	:Mr.R.Pandivel Standing Counsel
For Respondent-3	:Mr.R.Suresh Kumar

O R D E R

(Order of the Court was made by D.KRISHNAKUMAR,J)

This Writ Petition is filed seeking issuance of a Writ of Mandamus directing the first respondent to accept the Petitioner's consent regarding the payment of interest for the amount deposited by the third respondent and thereby direct the respondents 1 and 2 to repay the amount deposited by the third respondent pursuant to the sale, dated 17.09.2022, as per the direction in W.P(MD)No. 13454 of 2022.

2.The Petitioner had earlier filed W.P(MD)No.13454 of 2022 and the Division Bench of this Court by order, dated 26.07.2022 directed the Debts Recovery Tribunal to dispose of the Sarfaesi Application in S.A.No.490 of 2021 within a period of three months



from the date of receipt of a copy of this order.

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3.The Writ Petitioner has filed the present Writ Petition for the relief as stated supra, for a direction to the respondents 1 and 2 to repay the amount deposited by the third respondent pursuant to the sale, dated 17.09.2022 as per the direction of this Court in W.P(MD)No.13454 of 2022.

4.Paragraph No.8 of the order made in the above Writ Petition, dated 26.07.2022, reads as follows:

"8.In case, the Petitioner gives his consent to pay interest for the amount deposited by the auction purchaser, it is open to the respondent Bank to repay the amount, which has been deposited by the auction purchaser pursuant to the sale, with interest. In case, the auction purchaser agrees to withdraw from the sale upon payment of the sum which he had paid towards sale along with interest, burden of which may be scheduled by the Petitioner, the Petitioner may make further representation for regularizing the loan amount or for waiver of penal interest or for settlement or restructuring the loan in the manner known to law."

5.The learned counsel for the third respondent submitted that the Sarfaesi Application in S.A.No.490 of 2021 was dismissed for



default for the non-appearance of the Petitioner, on 14.10.2022.

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6.This Court is of the view that without restoring the dismissal order passed in S.A.No.490 of 2021, the Petitioner cannot seek for any relief based on the earlier order passed by this Court and as such, no relief as sought for by the Writ petitioner can be granted and hence the Writ Petition is liable to be dismissed.

7.Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed. It is for the Petitioner to work out his remedy in the manner known to law, if so advised.

[D.K.K.,J.] [R.V.,J.]
16.12.2022

Index:Yes/No

Internet:Yes/No

vsn

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D.KRISHNAKUMAR, J.

AND

R.VIJAYAKUMAR, J.

vsn

ORDER MADE IN

W.P(MD)NO.26525 OF 2022

and

W.M.P(MD)No.20707 of 2022

16.12.2022