



W.P(MD)No.27908 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2022

CORAM:

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

**W.P(MD)No.27908 of 2022
and
W.M.P(MD)Nos.21979 & 21981 of 2022**

C.Selvendhiran

... Petitioner

VS.

M/s.Equitas Small Finance Bank Limited,
Represented by its Authorized Officer,
K.Muthuselvam.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Ceritorari, to call for the records relating to the impugned order passed in Cr.M.P.No.5847 of 2022 on the file of the learned Chief Judicial Magistrate, Theni, Theni District dated 13.09.2022 and quash the same.

For Petitioner : Mr.R.Murali

For Respondent : Mr.M.Sarangan
Additional Government Pleader



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ORDER

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

Challenging the impugned order passed in Cr.M.P.No.5847 of 2022, dated 13.09.2022, by the learned Chief Judicial Magistrate, Theni, Theni District, the petitioner has filed the present Writ Petition.

2.The petitioner borrowed a loan for a sum of Rs.5,50,000/- by mortgaging the schedule mentioned property and due to non-payment of the monthly instalments, the respondent Bank has classified the petitioner's account as "Non-Performing Asset" within the meaning of Section 2(o) of the SARFAESI Act. Subsequently, the respondent Bank has issued the statutory notice under Section 13(2) of the Act on 10.12.2019 *inter alia* calling upon the petitioner to repay a sum of Rs.5,15,390/- as on 04.12.2019 with an additional interest as on the date of repayment to discharge their liabilities in full within 60 days from the date of statutory notice. Admittedly, the petitioner did not settle the loan amount and submitted a reply to the respondent on 27.06.2020. According to the petitioner, the total claim of the respondent Bank as on 25.07.2022 is at Rs.



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3.Heard the learned counsel appearing on either side and perused the materials available on record.

4.On a perusal of the facts of the case, admittedly, the petitioner has not challenged the notice issued under Section 13(2) and 13(4) of the SARFAESI Act before the competent forum, namely, the Debts Recovery Tribunal, Madurai, but he has challenged the notice issued under Section 14 of the SARFAESI Act before this Court. Subsequent to the order passed by the learned Chief Judicial Magistrate, Theni, by appointing an Advocate Commissioner to assist the petitioner to take possession of the schedule mentioned property within 30 days from the date of issuance of warrant, the petitioner has not given any explanation and there is a delay of



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more than three months in challenging the aforesaid impugned order.

Besides, the petitioner has not approached the Debts Recovery Tribunal, Madurai, for getting remedy. Therefore, we are not inclined to entertain the present Writ Petition.

5.Accordingly, this Writ Petition is dismissed. However, liberty is granted to the petitioner to approach the respondent Bank for further settlement of the loan amount in due. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
12.12.2022

Index : Yes / No
Internet : Yes
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To

M/s.Equitas Small Finance Bank Limited,
Represented by its Authorized Officer,
K.Muthuselvam.



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D.KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
W.P(MD)No.27908 of 2022

DATED : 12.12.2022