



W.P.(MD) No.28487 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.28487 of 2022
and W.M.P.(MD)No.22492 of 2022

1.M.Manjamalai

2.K.Gayathri

... Petitioners

Vs.

M/s.Equitas Small Finance Bank Ltd.,
Rep. by Authorised Officer R.Senthilkumar,
S/o.Ramar, Office at Plot No.16,
2nd Floor, Near 7th Cross Street,
T.M.Nagar, Madurai – 625 107.

... Respondent

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 impugned order in Cr.M.P.No.1766 of 2022, dated 18.11.2022 passed by the learned Chief Judicial Magistrate, Madurai and quash the same as illegal.

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For Petitioners : Mr.M.Iniyavan
For Respondent : Mr.Baskar,
Standing Counsel.

ORDER

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

Challenging the order passed by the learned Chief Judicial Magistrate, Madurai, in Cr.M.P.No.1766 of 2022, dated 18.11.2022, the petitioners have filed this Writ Petition.

2. Heard Mr.M.Iniyan, learned counsel for the petitioners and Mr.Baskar, learned Standing Counsel, who takes notice for the respondent. By consent of both parties, this Writ Petition is taken up for final disposal.

3. The 1st petitioner has availed a mortgage loan from the respondent to the tune of Rs.15,95,000/- on 09.06.2018. Since the petitioners have committed default in repayment of the loan amount, the respondent has issued a demand notice on 24.02.2022. Thereafter, issued possession notice on 18.05.2022.



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Challenging the said possession notice, the petitioners have filed an appeal in S.A.No.283 of 2022, before the Debts Recovery Tribunal, Madurai. The petitioners have also filed an application in I.A.No.1019 of 2022 and the same is pending. In the meantime, the respondent has filed an application under Section 14 of the SARFAESI Act in Cr.M.P.No.1766 of 2022 before the learned Chief Judicial Magistrate, Madurai. The said application was allowed by the learned Chief Judicial Magistrate on 18.11.2022. As against the said order, the petitioners have filed this Writ Petition.

4. The learned counsel appearing for the petitioners has admitted that an appeal in S.A.No.283 of 2022 is pending before the Debts Recovery Tribunal, Madurai and the petitioners have also filed an application in I.A.No.1019 of 2022. However, the Tribunal has not passed any interim order in the said application. In view of the order passed by the learned Chief Judicial Magistrate, Madurai, in Cr.M.P.No.1766 of 2022, dated 18.11.2022, the respondent has taken possession of the petitioners' property and hence, prays for appropriate order.



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WEB COPY 5. The learned counsel appearing for the respondent bank submitted that the petitioners have not obtained any order before the Debts Recovery Tribunal, Madurai and therefore, this Writ petition cannot be maintained and prays for dismissal of this Writ Petition.

6. Considering the facts and circumstances of the case and also considering the fact that the petitioners have already filed an application in I.A.No.1019 of 2022 before the Debts Recovery Tribunal, Madurai and the same is also pending, we direct the Presiding Officer, Debts Recovery Tribunal, Coimbatore, now incharge of Debts Recovery Tribunal, Madurai, to dispose of I.A.No.1019 of 2022, on merits and in accordance with law, after providing sufficient opportunities to all the parties concerned, as early as possible, preferably, within a period of two (2) weeks from the date of receipt of a copy of this order. The learned counsel for the respondent submitted that he will give appropriate instructions to the respondent bank not to take any coercive action against the petitioners, till such time.



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WEB COPY 7. With the above direction, this Writ Petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [R.V., J.]
20.12.2022

Index : Yes / No
Internet : Yes / No
vsm

To

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2.The Debts Recovery Tribunal, Coimbatore.



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

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