



W.P.(MD) No.28635 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD) No.28635 of 2022
and W.M.P.(MD)No.22665 of 2022

M/s.Bakery Amutham

... Petitioner

Vs.

1.The Chief Judicial Magistrate,
Chief Judicial Magistrate Court,
District Court Campus,
Madurai.

2.The Authorized Officer / Chief Manager,
IDFC Bank Ltd.,
(Erstwhile Capital First Limited
and Amalgamated with IDFC Bank Ltd),
1st Floor, By Pass Road,
Next to Rathina Hospital,
Madurai – 625 010.

... Respondents



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WEB COPY PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, restraining the 2nd respondent from taking physical possession till the disposal of the stay application in I.A.S.R.No.6555 of 2022 in S.A.S.R.No.6552 of 2022 on the file of the Debts Recovery Tribunal, Madurai.

For Petitioner : Mr.M.Arun Murugan

For Respondents : Mr.A.Sivasubramanian for R2

ORDER

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

This Writ Petition has been filed for issuance of a Writ of Mandamus, restraining the 2nd respondent from taking physical possession of the petitioner's property, till the disposal of the stay application in I.A.S.R.No.6555 of 2022 in S.A.S.R.No.6552 of 2022, on the file of the Debt Recovery Tribunal, Madurai.

2. Heard Mr.M.Arun Murugan, learned counsel for the petitioner and Mr.A.Sivasubramanian, learned counsel, who takes notice for the second respondent.

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3. The petitioner has availed a loan from the second respondent for running the bakery for a sum of Rs.45,00,000/- in the year 2018 and for a sum of Rs.8,77,046/- in the year 2020. Due to COVID 19 pandemic, the petitioner is not able to repay the said amount and hence, the 2nd respondent has initiated proceedings under the SARFAESI Act. The petitioner has received a notice from the Advocate Commissioner on 13.12.2022, stating that physical possession will be taken on 21.12.2022. As against the same, the petitioner has filed an appeal before the Debts Recovery Tribunal, Madurai in S.A.S.R.No. 6552 of 2022 along with the condone delay petition. The said condone delay petition was numbered and posted for hearing on 16.12.2022. Since there was no representation on behalf of the respondent bank before the Debts Recovery Tribunal on 16.12.2022, the case was adjourned to 23.12.2022. Hence, the petitioner has filed this Writ Petition.

4. The learned counsel appearing for the petitioner submitted that if the 2nd respondent is allowed to take possession of the petitioner's property on



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21.12.2022, the petitioner will be put to irreparable loss and great hardship and hence, prays for appropriate orders.

5. We are inclined to accept the contention made by the petitioner and therefore, we direct the Presiding Officer, Debts Recovery Tribunal, Coimbatore, incharge of Debts Recovery Tribunal, Madurai, to consider and dispose of the condone delay application in I.A.No.1725 of 2022 on 23.12.2022. Till such time, the 2nd respondent shall not take any coercive action against the petitioner. The learned counsel appearing for the 2nd respondent bank also undertakes to co-operate for the disposal of I.A.No.1725 of 2022 before the Tribunal.

6. 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.]
21.12.2022

Index : Yes / No

Internet : Yes / No

vsm

Note: Issue order copy today i.e., on 21.12.2022



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