



W.P(MD)No.29028 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2022

CORAM:

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

**W.P(MD)No.29028 of 2022
and
W.M.P(MD)Nos.23004 & 23005 of 2022**

Vanasundari

... Petitioner

VS.

The Authorized Officer,
M/s.Aptus Value Finance India Limited,
1st Floor, Sona Tower,
Palani Road,
New Agraharam,
Dindigul – 624 001.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari Mandamus, to call for the records pertaining to the impugned order dated 19.04.2022 passed by the learned Chief Judicial Magistrate, Theni in Cr.M.P.No.94 of 2022 under Section 14 of the SARFAESI Act, 2002 and quash the same and to remove the physical possession taken on 06.11.2022 by the respondent.

For Petitioner : Mr.T.Thevan

For Respondent : Mr.V.Sugumar
Standing Counsel



W.P(MD)No.29028 of 2022

WEB COPY

ORDER

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

Mr.V.Sugumar, learned standing counsel takes notice for the respondent. By consent of both the parties, the Writ Petition is taken up for final disposal at the time of admission itself.

2.The petitioner has filed the present Writ Petition seeking for issuance of a Writ of Certiorari Mandamus, to quash the impugned order dated 19.04.2022 passed by the learned Chief Judicial Magistrate, Theni in Cr.M.P.No.94 of 2022 and to remove the physical possession taken on 06.11.2022 by the respondent.

3.The petitioner has approached the respondent Bank and obtained a term loan for a sum of Rs.6,44,937/- under the Prime Minister Housing Loan Scheme with subsidy of Rs.2,00,000/-. Due to family dispute, the petitioner alone is staying in the aforesaid house property. Since the petitioner was not in a position to settle the entire outstanding due amount, the respondent Bank has filed a petition in Cr.M.P.No.94 of 2022 under Section 14 of the SARFAESI Act to take possession of the said house property.



W.P(MD)No.29028 of 2022

WEB COPY

4. According to the petitioner, she has no other alternative place for residing except the said house property. Therefore, the learned counsel appearing for the petitioner has made a request before this Court that the petitioner shall come forward with a proposal to pay a sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) to the respondent Bank within a period of four weeks from today. On payment of such amount, the respondent Bank shall consider the request for handing over of the key to the petitioner and the balance outstanding amount will be settled within a period of six months time. Alternatively, the petitioner also submits an application to settle the entire outstanding due amount under the OTS scheme. Therefore, the petitioner seeks short time for mobilizing the said amount and approach the respondent Bank.

5. The learned counsel appearing for the respondent Bank has submitted that the respondent Bank is particularly interested in recovering the amount from the petitioner and considering the plight of the petitioner, if the petitioner shows her bona fide in payment of the amount to the respondent Bank, the said request will be considered by the respondent Bank. He further submitted that within the stipulated period as stated supra, the petitioner has to pay the partial amount to the respondent Bank



W.P(MD)No.29028 of 2022

WEB COPY

and on such payment, the respondent Bank will consider the request for handing over of the key, if the petitioner's husband may not have any objections.

6.Considering the aforesaid submission of the parties, without expressing any opinion on the merits of the case, however, we direct the petitioner to make an application to the respondent Bank within a period of two days from today. On such request being made by the petitioner, the respondent Bank shall consider the said request of the petitioner for accepting the sum of Rs.2,50,000/- within a period of four weeks and consider her request for handing over of the key to the petitioner. The said exercise shall be completed within a period of four weeks from the date of the receipt of the request made by the petitioner. Till such time, no coercive steps shall be taken by the respondent Bank for recovering the said outstanding due amount from the petitioner and also consider the request of the petitioner for settling the entire outstanding within six months. If the petitioner fails to comply with the abovesaid conditions, the respondent Bank shall proceed further in accordance with law.



W.P(MD)No.29028 of 2022

WEB COPY

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
23.12.2022

Index : Yes / No
Internet : Yes
ps

To

The Authorized Officer,
M/s.Aptus Value Finance India Limited,
1st Floor, Sona Tower,
Palani Road,
New Agraharam,
Dindigul – 624 001.



WEB COPY



W.P(MD)No.29028 of 2022

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

ps

ORDER MADE IN
W.P(MD)No.29028 of 2022

DATED : 23.12.2022