



WEB COPY



W.P.No.13904 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.13904 of 2023

E.Merlin Thompson

.. Petitioner

Vs

The Karur Vysya Bank,
rep. by its Chief Manager,
Authorised Officer A.Venkatasubramanian,
Asset Recovery Branch,
2nd Floor, No.1, Padmavathiyar Road,
(Off. Peters Road), Gopalapuram,
Chennai, Tamilnadu-600 086.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondent to consider the petitioner's representation dated 9.3.2023 till then the respondent not to proceed further in pursuance of the order learned CJM, Chengalpattu i CrI.M.P.o.10680 of 2021 dated 03.03.2022.



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For the Petitioner : Mr.M.Velmurugan

For the Respondent : Mr.P.Raghunathan
for M/s.T.S.Gopal & Co.

ORDER

(Order of the court was made by the Hon'ble Acting Chief Justice)

This writ petition has been filed by the petitioner for issuance of a writ of mandamus directing the respondent bank to consider the petitioner's representation dated 9.3.2023 and to restrain the respondent from proceeding further in pursuance of the order of the learned Chief Judicial Magistrate, Chengalpattu, in CrI.M.P.No.10680 of 2021 dated 3.3.2022.

2. Learned counsel for the petitioner submitted that although the petitioner has borrowed a sum of Rs.3.56 crore in the year 2014, for reasons beyond his control, he had committed a default in paying the EMI, which resulted in his account being classified as NPA. Pursuant thereto, the respondent bank has moved an application in CrI.M.P.No.10680 of 2021 under Section 14 of the



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Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 before the learned Chief Judicial Magistrate, Kancheepuram and the same was allowed on 3.3.2022. He would submit that since the secured asset is a residential premises, if the petitioner is dispossessed from the property, he would be put to irreparable hardship and loss. Therefore, the petitioner has been advised to come to this Court.

3. Adding further, learned counsel for the petitioner submitted that the petitioner is ready to pay a sum of Rs.1.50 crore within a period of one week from today and the balance amount will be cleared within two weeks thereafter.

4. Learned counsel appearing for the respondent bank submitted that earlier a similar request was made by the petitioner to the respondent bank and the same was refused and the factum of refusal was also informed to the petitioner.

5. Be that as it may, since the petitioner has given an



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undertaking to pay a sum of Rs.1.50 crore within a period of one week from today and the balance amount within two weeks thereafter, we find some merit in the plea raised by the petitioner in the writ petition.

6. Accordingly, the writ petition is disposed of with a direction to the respondent bank to consider and pass orders on the representation of the petitioner dated 9.3.2023, subject to the payment of Rs.1.50 crore by the petitioner within a period of one week from today. The petitioner should also file an undertaking before the bank that he would pay the balance amount within two weeks thereafter. There will be no order as to costs. Consequently, W.M.P.No.13564 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
28.04.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

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The Chief Manager/Authorised Officer,
Karur Vysya Bank,
Asset Recovery Branch,
2nd Floor, No.1, Padmavathiyar Road,
(Off. Peters Road), Gopalapuram,
Chennai, Tamilnadu-600 086.



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THE HON'BLE ACTING CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

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