



W.P.(MD) No.449 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE L.VICTORIYA GOWRI

W.P.(MD)No.449 of 2023
and W.M.P.(MD)Nos.414 & 415 of 2023

Muthuselvan

... Petitioner

Vs.

M/s. Shriram Housing Finance Limited,
Rep. Through its Authorized Officer,
No.123, Angappa Naicken Street,
Chennai – 600 001.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned possession notice dated 17.12.2022 issued under section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Act, 2002 (SARFAESI) issued by the respondent and quash the same.

Page 1 of 5



WEB COPY

W.P.(MD) No.449 of 2023

For Petitioner : Mr.AL.Kannan
For Respondent : Mr.V.Sakthivel
Standing Counsel

ORDER

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

In view of the fact that the Debts Recovery Tribunal, Madurai is functioning once in a week, we are inclined to entertain this Writ Petition.

2. This Writ Petition has been filed challenging the impugned possession notice dated 17.12.2022 issued under section 13(4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Act, 2002 (SARFAESI) by the respondent.

3. The learned counsel appearing for the petitioner submitted that the petitioner is ready to repay the sum of Rs.7,85,309/- towards arrears of loan No.SHTRCY0000157 to the respondent housing finance Corporation on or



W.P.(MD) No.449 of 2023

before 20.04.2023 and till such time, he seeks interim protection. The petitioner has filed an undertaking affidavit to that effect.

4. The learned counsel appearing for the respondent submitted that the actual arrears amount comes to Rs.7,94,283/- and he has agreed the terms of the undertaking affidavit filed by the petitioner.

5. The learned counsel for the respondent submitted that the Advocate Commissioner has already taken possession of the property and a report has been filed before the learned Chief Judicial Magistrate, which was refuted by the learned counsel appearing for the petitioner.

6. Without going into the controversy, in view of the undertaking given by the petitioner, this Court directs the petitioner to pay the entire arrears amount of Rs.7,95,289/- in two consecutive equal monthly installments. The first installment shall be paid on or before 17.03.2023 and the second installment shall be paid on or before 17.04.2023. Till such time, the respondent shall not



W.P.(MD) No.449 of 2023

take any coercive action against the petitioner. If there is any default on payment of any one of the aforesaid installment, the respondent is at liberty to proceed further in accordance with law. On payment of the aforesaid arrears amount, the respondent shall hand over the possession of the property to the petitioner immediately.

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

[D.K.K., J.] [L.V.G., J.]

16.02.2023

NCC : Yes / No
Index : Yes / No
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WEB COPY



W.P.(MD) No.449 of 2023

D.KRISHNAKUMAR, J.
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W.P.(MD)No.449 of 2023

16.02.2023