



W.P.(MD) No.1341 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.1341 of 2023

and

W.M.P.(MD)Nos.1229 to 1231 of 2023

S.AnainthaPerumal

... Petitioner

-Vs-

1.M/s.Dewan Housing Finance Corporation Ltd.,

Rep. by its Authorized Officer,

B.Babakrishnan,

Registered Office at Warden House,

Sir P.M.Road, Fort, Mumbai-400 001,

Maharashtra.

2.M/s.Dewan Housing Finance Corporation Ltd.,

Rep. by its Authorized Officer,

No.1738/2A, 1st Floor, Shah Complex,

Palayamkottai, Tirunelveli.

... Respondents

Page 1 of 6



W.P.(MD) No.1341 of 2023

WEB COPY

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the learned Chief Judicial Magistrate, Tirunelveli in Cr.M.P.No.11280/2021, dated 02.11.2022 and quash the same and consequently, direct the respondents to unlock the seal affixed in the house property of the petitioner in Natham Survey No.561/1A, 9th Ward, Kilakkulam, Veeravanallur, Ambasamudram Taluk, Tirunelveli District and hand over the possession to the petitioner.

For Petitioner : Mr.M.Suresh,
For Mr.J.Jeyakumaran
For Respondents : Mr.P.Pethu Rajesh,
Standing Counsel

ORDER

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

Challenging the order dated 02.11.2022 made in Cr.M.P.No.11280/2021 by the learned Chief Judicial Magistrate, Tirunelveli, this Writ Petition is filed with a consequential direction to the respondents to unlock the seal affixed in the house property of the petitioner in Natham Survey No.561/1A, 9th Ward, Kilakkulam, Veeravanallur, Ambasamudram Taluk, Tirunelveli District and hand over the possession to the petitioner.

Page 2 of 6



W.P.(MD) No.1341 of 2023

WEB COPY

2.Mr.P.Pethu Rajesh, learned Standing Counsel takes notice for the respondents.

3.By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4.The learned counsel for the petitioner undertakes before this Court that the petitioner to show his *bona fide* is ready to pay a sum of Rs.3,00,000/- (Rupees Three Lakhs Only) on or before 23.02.2023 and the remaining outstanding amount will be paid in three consecutive equal monthly installments. He seeks some indulgence of this Court that on payment of the 1st installment, the possession may be handed over to the petitioner.

5.The learned Standing Counsel for the respondent Bank has strongly objected that the respondent Bank has taken possession of the property of the petitioner by following the procedures as contemplated under the rules.

Page 3 of 6



W.P.(MD) No.1341 of 2023

Therefore, the possession will be handed over to the petitioner, provided he paid the entire outstanding amount as on date to the respondent Bank.

6.In view of the above, we are inclined to dispose of this Writ Petition on the following directions:-

“(i)The petitioner is directed to pay a sum of Rs.3,00,000/- on or before 23.02.2023 to the respondent Bank;

(ii)The balance outstanding amount shall be paid by the petitioner in three consecutive equal monthly installments and the 1st installment shall be paid on or before 23.03.2023 and subsequent two installments shall be paid on or before 23rd day of every English Calendar month;

(iii)Till such time, the respondent Bank is directed to maintain the status-quo prevailing as on date;

(iv) If the petitioner fails to make any one of the aforesaid installments, the respondent Bank is at liberty to proceed in accordance with law; and



W.P.(MD) No.1341 of 2023

WEB COPY

(v).We make it clear that if the petitioner paid the entire outstanding amount, the respondent Bank shall hand over the possession to the petitioner immediately.”

No costs. Consequently, connected miscellaneous petitions are also closed.

[D.K.K., J.] & [R.V., J.]
24.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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W.P.(MD) No.1341 of 2023

D.KRISHNAKUMAR, J.

AND

R.VIJAYAKUMAR, J.

MYR

W.P.(MD)No.1341 of 2023

24.01.2023

Page 6 of 6