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W.P.(MD) Nos.1811 & 5464 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.P.(MD) Nos.1811 & 5464 of 2023

and

W.M.P.(MD) Nos.1606, 1608 & 5104 of 2023

1.Sankar

2.Devika

... Petitioners in both W.Ps.

-vs-

M/s.Reliance Asset Reconstruction Co. Ltd.,
Chennai
rep.by its Authorized Officer
P.Satheeshkumar
10-A, Haddows Road
Nungambakkam
1st Floor
Near Shastri Bhawan
Thousand Lights West
Thousand Lights
Chennai

... Respondent in
W.P.(MD) No.1811 of 2023



W.P.(MD) Nos.1811 & 5464 of 2023

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M/s.Reliance Asset Reconstruction Co. Ltd.,
Chennai
rep.by its Authorized Officer
11th Floor, North side
R-Tech Park
Western Express Highway
Goregaon (East)
Mumbai-400 063

... Respondent in
W.P.(MD) No.5464 of 2023

PRAYER (in W.P.(MD) No.1811 of 2023): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to proceedings made in CrI.M.P.No.26034 of 2022, on the file of the Chief Judicial Magistrate, Trichy, dated 01.12.2022 and quash the same.

PRAYER (in W.P.(MD) No.5464 of 2023): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to proceedings made in Notice for sale of secured Assets, dated 15.02.2023, on the file of the respondent herein, and quash the same.

For Petitioners : Mr.R.Sundar
(in both W.Ps)

For Respondents : Mr.M.Sankar
(in both W.Ps.



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C O M M O N O R D E R

[Order of the Court was made by V.LAKSHMINARAYANAN, J.]

These writ petitions challenge the proceedings of the learned Chief Judicial Magistrate, Trichy, in CrI.M.P.No.26034 of 2022, dated 01.12.2022 and the sale notice, dated 15.02.2023, issued by the respondent under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, “SARFAESI Act”).

2. The principal point urged by the learned counsel for the petitioners is that the respondent is a Non-Banking Financial Institution (in short, “NBFC”) and by virtue of the Circular issued by the Reserve Bank of India, it is not entitled to invoke the provisions of the SARFAESI Act unless and until the threshold limit of Rs.25,00,000/- is achieved.

3. Learned counsel for the respondent – NBFC concedes that the amount due from the petitioners is less than Rs.25,00,000/-. However, he would state that on the basis of the order passed by the learned Chief Judicial Magistrate, Trichy, the respondent – NBFC has taken possession of the secured asset.



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4. After hearing both sides, in order to give quietus to the issue, we feel that the entire matter can be settled, without pushing the parties for further litigation, on the following conditions:

- (i) Learned counsel for the petitioners undertakes that the petitioners **will pay** a sum of Rs.3,00,000/- (Rupees three lakhs only), within a period of one week from today, to the respondent – NBFC.
- (ii) The remaining amount shall be paid by the petitioners to the respondent – NBFC in three equated monthly installments commencing from January, 2024. The monthly installments shall be paid on or before 10th of every succeeding month.
- (iii) On payment of Rs.3,00,000/- by the petitioners within a period of one week from today, the respondent – NBFC shall handover the possession of the secured asset to the petitioners.
- (iv) In case of default in any one of the monthly installments, the respondent – NBFC shall take



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appropriate steps to take possession of the secured asset again.

- (v) It is made clear that no extension of time will be granted at any cost.

5. With the above directions, the writ petitions are disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.] [V.L.N., J.]
13.12.2023
(2/2)

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

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To:
The Chief Judicial Magistrate,
Trichy.

Note to Office:

Issue order copy by 14.12.2023.



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S.M.SUBRAMANIAM, J.
and
V.LAKSHMINARAYANAN, J.

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