



W.P.(MD) No.2315 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD) No.2315 of 2023
and W.M.P.(MD)No.2086 of 2023

I.Sirajdeen

... Petitioner

Vs.

1.The Authorized Officer,
Repco Home Finance (Ltd.),
No.2597-2598, South Main Street,
Thanjavur,
Pincode – 613 001.

2.The Branch Manager,
Repco Home Finance (Ltd.),
No.2597-2598, South Main Street,
Thanjavur,
Pincode – 613 001.

... Respondents



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WEB COPY PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned possession notice issued by the 1st respondent dated 25.01.2023 U/s 13(4) of SARFAESI Act, 2002 and quash the same and consequently to regularize the petitioner's housing loan account A/C.No.1281860003871 maintained in Repco Home Finance (Ltd.), No.2597-2598, South Main Street, Thanjavur, Pincode – 613 001.

For Petitioner : Mr.D.Selvanayagam

For Respondents : Mr.B.Rajesh Saravanan

ORDER

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

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned possession notice issued by the 1st respondent dated 25.01.2023 U/s 13(4) of SARFAESI Act, 2002 and quash the same and consequently to



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regularize the petitioner's housing loan account A/C.No.1281860003871 maintained in Repco Home Finance (Ltd.), No.2597-2598, South Main Street, Thanjavur, Pincode – 613 001.

2. The learned counsel appearing for the petitioner submitted that the petitioner has availed a housing loan from the respondents bank to the tune of Rs.20 lakhs and due to COVID -19 pandemic, he was not able to repay the said amount and hence, the respondents bank has declared the petitioner's loan account as NPA. Thereafter, the respondent bank has issued a demand notice on 28.06.2022. Challenging the said notice, the petitioner has filed a Writ Petition before this Court in W.P.(MD)No.19717 of 2022. This Court, by order dated 25.08.2022, allowed the said Writ Petition, with the following conditions:

“(a)The respondent shall defer further action that the learned counsel appearing for the petitioner produced a demand draft of Rs.1 lakh drawn in favour of the respondent bank, which is handed over to the learned counsel appearing for the respondent bank across the Court and on further condition that the petitioner pays a sum of Rs.1 lakh on or before 12.09.2022, directly to the respondent bank. Upon payment of a sum of Rs.2 lakhs, it is open to the petitioner to approach



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WEB COPY *the respondent bank for regularization of loan account or for restructuring the loan, as may be permissible as per the norms of RBI applicable to the respondent Bank.*

(b) When a representation submitted by the petitioner, the respondent Bank is directed to consider the same and pass appropriate orders within a period of two months from the date of receipt of a copy of this order. Till such time, the respondent Bank communicate the order, it shall not initiate any coercive action as against the petitioners.

(c) In case, the petitioner fails to make any one of the installments as indicated above, it is open to the respondent Bank to proceed further in accordance with law.”

3. The learned counsel appearing for the petitioner further submitted that the conditional order passed by this Court has been complied and he has paid a sum of Rs.2 lakhs within the time stipulated by this Court and as per the order of this Court, the petitioner has made a representation on 30.11.2022, to the respondents bank seeking for regularization of his loan account and till date, the same was not considered by the respondents bank. In the meantime, the respondents bank issued the impugned possession notice dated 25.01.2023 and



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therefore, the petitioner has approached this Court.

4. The learned counsel appearing for the respondents bank submitted that though the respondents bank has already sent a communication to the petitioner to conduct the respondent bank for payment of the overdue amount and for regularization of the account, the petitioner has not conducted the respondents bank and therefore, the request of the petitioner to regularise his account has not been considered. He further submitted that the petitioner has to pay the interest for the delayed period for the amount of Rs.4,61,848/- as on 05.12.2022.

5. In response, the learned counsel for the petitioner submitted that the petitioner is ready to pay the overdue amount within three months and he has also ready to pay the interest for the delayed period.

6. Considering the submissions made by both sides, we are of the view that no prejudice would be caused to the respondents bank, if an opportunity is granted to the petitioner to pay the overdue amount. Therefore, we direct the



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petitioner to make a fresh application to the respondents bank for payment of the overdue amount, within a period of one week from the date of receipt of a copy of this order. On receipt of such application, the respondents bank is directed to give details of the overdue amount along with the delayed period upto March 2023. Thereafter, the petitioner shall pay the overdue amount to the respondents bank by two equated monthly installments, on or before 31.03.2023. On payment of the said amount, the respondents bank is directed to regularise the loan account of the petitioner. If there is any default for making the said amount, it is open to the respondents bank to proceed further in accordance with law. We make it clear that no further time will be granted to the petitioner.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] [L.V.G., J.]
08.02.2023

NCC : Yes / No
Index : Yes / No



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vsm

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