



W.P(MD)No.2585 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2023

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P(MD)No.2585 of 2023
and
WMP(MD)No.2353 of 2023**

1. V.Karthika
2. M.Vasimalai
3. M.Pareethishwaran

... Petitioners

vs.

The Authorized Officer,
Aptus Value Housing Finance India Ltd.,
8B, Doshi Towers,
205, Poonamallee High Road,
Kilpauk, Chennai-600 010.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the impugned symbolic possession notice dated 12.10.2021 issued by the Respondent Bank under Section 8(1) of SARFAESI Act to the petitioners and set aside the same as illegal, unjust and arbitrary forthwith.

For Petitioner : Mr.M.Jegadeesh Pandian
For Respondent : Mr.V.Sukumar, Standing Counsel



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ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

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The prayer in the writ petition is for issuance of a Writ of Certiorari, to call for the impugned symbolic possession notice dated 12.10.2021 issued by the respondent under Section 8(1) of SARFAESI Act to the petitioners and set aside the same as illegal, unjust and arbitrary forthwith.

2. On 09.02.2023, learned counsel for the petitioners submitted that the petitioners are ready to pay 20% of the outstanding amount within four weeks and the balance amount in five equal monthly instalments thereafter. He also submitted that the petitioners will file an undertaking affidavit to that effect. Hence, the writ petition was directed to be listed on 10.02.2023. Subsequently, on 14.02.2023, learned counsel for the petitioners took time for filing undertaking affidavit.

3. Now, the petitioners have filed an undertaking affidavit dated 20.02.2022 stating that out of the total outstanding amount of Rs.8,02,853/-, they are ready to deposit 20% of the outstanding



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amount within four weeks and the balance 80% of the amount within one year in five instalments.

4. Learned standing counsel appearing for the respondent objected to the one year time sought for to deposit 80% of the outstanding amount contending that it is highly excessive and contrary to the earlier undertaking given by the petitioner on 09.02.2023 and at best, the petitioner can be given only six months time to pay 80% of the outstanding amount, for which, learned counsel for the petitioner has agreed.

5. Recording the aforesaid submissions, we direct the petitioner to pay 20% of the outstanding amount within a period of four weeks from the date of receipt of a copy of this order. The balance 80% of the outstanding amount shall be paid in six consecutive equal monthly instalments. The first instalment shall be paid on or before the 30th day of April 2023 and the remaining instalments shall be paid on or before the last day of the succeeding months. The last instalment shall be paid on or before 30.09.2023. Till such time, no coercive action shall be taken by the respondent



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against the petitioner. If there is any default in payment of any one of the instalments, it is open to the respondent to proceed further in accordance with law.

6. With the above direction, the Writ Petition is disposed of.

No costs.

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

[D.K.K.,J.] & [L.V.G.,J.]
22.02.2023



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D.KRISHNAKUMAR, J.
and
L.VICTORIA GOWRI, J.

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ORDER MADE IN
W.P(MD)No.2585 of 2023
DATED : 22.02.2023