



W.P.(MD)No.3012 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.3012 of 2023
and W.M.P.(MD)Nos.2834 & 2835 of 2023

M.Muthukumar

... Petitioner

Vs.

M/s.Indian Bank,
Represented by its Authorised Officer,
Karthikeyan,
Karaikudi Branch,
21, Koviloor Road,
Karaikudi, Sivagangai – 630 001,
Tamil Nadu.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order in CrI.M.P.No.8740 of 2022, dated 09.12.2022 on the file of the learned Chief Judicial Magistrate, Sivagangai and quash the same as illegal.



W.P.(MD)No.3012 of 2023

WEB COPY

For Petitioner : Mr.AN.Ramanathan
For Respondent : Mr.Pandivel,
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. Challenging the order passed by the learned Chief Judicial Magistrate, Sivagangai in CrI.M.P.No.8740 of 2022, dated 09.12.2022, the petitioner has filed this Writ Petition.

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



W.P.(MD)No.3012 of 2023

WEB COPY

4. The learned counsel appearing for the petitioner submitted that the petitioner's father Viz., Murugan, who is the borrower, died on 27.05.2022 and the respondent - Bank, without impleading the legal heirs of the said Murugan, has obtained the impugned order as against the dead person and therefore, the impugned order is liable to be set aside.

5. The learned counsel appearing for the respondent – Bank agreed that the said Murugan died and he seeks liberty to file a fresh application before the learned Judicial Magistrate for taking further action under Section 14 of the SARFAESI Act.

6. At this juncture, the learned counsel appearing for the petitioner submitted that the petitioner needs some protection to approach the bank to submit a proposal for amicable settlement by entering into a compromise with the respondent bank.



W.P.(MD)No.3012 of 2023

WEB COPY

7. In reply, the learned counsel appearing for the respondent – Bank submitted that the total outstanding amount is at Rs.7,27,97,259/- as on 31.05.2020 and therefore, unless the petitioner shows his bona fide to pay some part of the said amount, the petitioner's request cannot be considered.

8. The learned counsel for the petitioner submitted that the petitioner, to show his bona fide, is ready to pay a sum of Rs.1,50,00,000/- within eight weeks in two installments.

9. In view of the aforesaid submissions, this Court directs the petitioner to pay a sum of Rs.1,50,00,000/- in two installments. The first installment shall be paid on or before 15.03.2023 and the second installment shall be paid on or before 15.04.2023. Till such time, the respondent – Bank shall not take any coercive action against the petitioner. If there is any default in any one of the above installments, the respondent – Bank is at liberty to proceed in accordance with law. In the meantime, the petitioner shall make a proposal for amicable settlement and it is for the respondent – Bank to consider the same. Liberty is



W.P.(MD)No.3012 of 2023

WEB COPY

also granted to the respondent – Bank to file a fresh application before the learned Chief Judicial Magistrate for getting appropriate orders.

10. With the above directions, this Writ Petition is disposed of. No costs.
Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] [L.V.G., J.]
15.02.2023

NCC : Yes / No
Index : Yes / No
vsm



WEB COPY



W.P.(MD)No.3012 of 2023

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

vsm

W.P.(MD)No.3012 of 2023

15.02.2023