



W.P.(MD) No.4465 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2023

CORAM:

**THE HON'BLE MR.T.RAJA, THE ACTING CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR**

W.P.(MD) No.4465 of 2023

and WMP(MD) Nos.4205, 4206 & 4207 of 2023

Balamurugan

... Petitioner

-VS-

1.The Regional Director,
Reserve Bank of India,
16 Rajaji Salai
Fort Glacis,
Chennai 600 001.

2.The Authorised Officer,
City Union Bank Limited,
Credit Recovery and Management Department
NARAYANA Administrative Office,
No.24B Gandhi Nagar,
Kumbakonam 612 001.



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3.The Branch Manager,
City Union Bank,
Aruppukottai
Virudhunagar District.

4.Jeyaruby

5.HArun Rasheed

6.K.Ayyarsamy

... Respondents

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 learned Chief Judicial Magistrate, Virudhunagar District at Srivilliputhur in CrI.M.P.No.5399/2022 dated 05.09.2022 and quash the same and consequently direct the respondents 2,3, & 6 to unseal the petitioner's house bearing Door No.14/11/15-C situated at 3rd Street, Anbu Nagar, Old Weavers Colony, Madurai Road, Aruppukottai, Virudhunagar District.

For Petitioner : Mr.R.Murugappan

For Respondents : Mr.R.Pandivel for R1 to R3



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ORDER

**[Order of the Court was made by
The Hon'ble The ACTING CHIEF JUSTICE]**

The petitioner has filed this writ petition challenging the impugned order dated 05.09.2022 passed by the Chief Judicial Magistrate, Virudhunagar in CrI.M.P.No.5399/2022 and for a further direction to the respondents 2,3, & 6 to unseal the petitioner's house bearing Door No.14/11/15-C situated at 3rd Street, Anbu Nagar, Old Weavers Colony, Madurai Road, Aruppukottai, Virudhunagar District.

2. The petitioner is a Lorry Driver and borrowed a sum of Rs.15 lakhs and he also paid nearly Rs.20 lakhs with interest to the respondents 2 and 3, however, due to COVID-19 pandemic, he has committed default, as a result of which, his account has been classified as NPA. Thereafter, the second respondent issued notice under Section 13(2) of the SARFAESI Act (in short 'the Act'), on 22.10.2021 followed by the possession notice dated 12.01.2022. Subsequently, a tender cum auction notice dated 07.02.2022 for auctioning the property for recovery of the outstanding amount of Rs.15,61,207/- as on 14.09.2021 was



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issued. Aggrieved by the auction sale notice, the petitioner has come before this Court by filing a writ petition and the petitioner withdrew the same to approach the bank for reconstructing his loan amount. When the petitioner was offered One Time Settlement by the bank to settle his credit facilities fixing a sum of Rs.13,50,000/-, wherein, it has been made clear that Rs.3 lakhs to be paid on or before 21.03.2022 and the remaining to be paid on or before 25.04.2022. Accordingly, the petitioner paid Rs.3 lakhs and committed default of the remaining amount and hence, the 2nd respondent brought the property for auction and sale vide notice dated 11.05.2022. Once again challenging the said notice, the petitioner filed another writ petition in WP(MD) No.10863/2022, which was disposed of by this Court by directing the petitioner to pay a sum of Rs.1,00,000/- within one month with a further direction to the petitioner to make a representation to the Bank for reconstruction of the loan. Though the petitioner paid Rs.1,00,000/-, the balance has not been paid and hence, the application for reconstructing the loan has been rejected. Thereafter, the respondent Bank approached the Chief Judicial Magistrate, Virudhunagar in Cr.M.P.No.5399/2022 under Section 14 of the Act. Finding that the petitioner is a habitual defaulter, the Chief Judicial Magistrate allowed the application filed under Section 14 of the



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Act, thereby appointing an Advocate Commissioner to take over the physical possession. Aggrieved by the same, the petitioner knocked the doors of this Court by again filing a writ petition in WP(MD) No.22762 of 2022, which was also disposed on 28.09.2022 by directing the respondents to consider the representation of the petitioner dated 24.09.2022 and the petitioner was given protection by directing the respondents not to take any coercive action till the said representation was considered. However, by stating that the petitioner was not carrying on any business, the question of reconstructing of the loan does not arise, the respondent rejected his case. Challenging the rejection order, the petitioner filed 4th writ petition in WP(MD) No.27482/2022 and again this Court entertained the writ petition thereby directed the petitioner to pay a sum of Rs.3 lakhs on or before 02.01.2023 and the entire remaining outstanding in six equal instalments. However, the petitioner committed defaults. Since the conditional order was not complied with, he is before this Court with this writ petition.

3. When this Court has repeatedly showed so much of diligence considering his poor background, he has not even made use of the same. Therefore, no purpose would be served by accepting the writ petition.



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Accordingly, the writ petition fails and the same is dismissed. No costs.

Consequently connected Miscellaneous Petitions are closed.

[T.R., A.C.J.] [D.K.K, J.]
02.03.2023

NCC : Yes / No
Index : Yes / No
RR



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THE HON'BLE THE ACTING CHIEF JUSTICE
and
D.KRISHNAKUMAR, J.

RR

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