



W.P.(MD) No.4399 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.4399 of 2023
and WMP(MD) Nos.4136 & 4137 of 2023**

Sureshkumar

... Petitioner

-VS-

M/s.GIC Housing Finance Ltd.,
Represented by its authorised officer
Chandra Mugaveera
Shop C&D, AR Plaza
No.16&17 North Veli Street,
Madurai Branch
Madurai 625 001.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the order passed by the learned Chief Judicial Magistrate, Theni in Cr.M.P.No.5795 of 2022 dated 17.10.2022 based on the application filed by the respondent bank for under



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section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 and quash the same as illegal.

For Petitioner : Ms.A.Banumathy
For Respondents : Mr.R.Pandivel

ORDER

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

The petitioner, who has suffered an order under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (in short, 'the Act') on the file of the Chief Judicial Magistrate, has filed this writ petition.

2. Since there is no Presiding Officer at Debts Recovery Tribunal at Madurai and the Debts Recovery Tribunal, Coimbatore is given additional charges, the petitioner is before this Court.



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3. Learned counsel for the petitioner would submit that the petitioner had borrowed a sum of Rs.17,50,000/- as loan from the respondent on 21.01.2013 on the premise that the said amount shall be cleared within 240 monthly instalments. The learned counsel would further submit that out of 240 instalments, the petitioner cleared 67 instalments and due to COVID-19 Pandemic situation and due to the lock-down by both Central and State Governments, which has disturbed the normalcy, he is unable to carry on his business. Adding further, the learned counsel would submit that although till date, a sum of Rs.12,95,512/- has been paid. The petitioner is prepared to pay a sum of Rs.10,00,000/- and will ready to clear the remaining dues, after meeting the officers of the respondent bank and after finalizing the One Time Settlement. Therefore, in the meanwhile, the order passed under Section 14 of the SARFAESI Act passed by the Chief Judicial Magistrate, Theni appointing an Advocate Commissioner to take over the physical possession of the land may be kept in abeyance.

4. Learned standing counsel for the respondent would submit that out of 240 instalments, 67 instalments have been made by the petitioner covering a sum



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of Rs.12,95,512/-, however, a serious default has taken place. Therefore, the petitioner's account has been classified as NPA. Thereafter, the notices under Section 13(2) dated 09.12.2020 and 13 (4) dated 08.12.2021 were issued. In spite of the receipt of these two notices, the petitioner refused to come forward to clear the dues. Therefore, proceedings under Section 13(2) of the Act was invoked before the Chief Judicial Magistrate, Theni. Accepting the case of the respondent, an order under Section 14 of the Act has been passed and hence, the petitioner at this stage cannot come to this Court.

5. The petitioner is prepared to pay a sum of Rs.10,00,000/- (Rupees ten lakhs only) on or before 25.03.2023 and on such payment of the said amount, the petitioner shall approach the authorized officer within a period of one week from the date of payment and if there is any proposal for One Time Settlement, the same may be considered as per the RBI norms. Till then, the impugned order shall be kept in abeyance. Needless to mention that if there is any default, the respondent is directed to proceed further.



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6. The writ petition is disposed of with the above direction. 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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