



W.P.(MD) No.5277 & 5278 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD) No.5277 & 5278 of 2023

and

W.M.P.(MD) Nos.4948, 4950, 4952 & 4953 of 2023

Ibid Vino S.D.

... Petitioner in both W.Ps.

-vs-

1.The Authorized Officer
State Bank of India
Kuzhithurai, Marthandam Post
Kanyakumari District

2.The Branch Manager
State Bank of India
Kuzhithurai Branch
Kuzhithurai, Marthandam Post
Kanyakumari District

... Respondents in both W.Ps.

PRAYER (in W.P.(MD) No.5277 of 2023): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records of the impugned order passed by the learned Chief Judicial Magistrate, Kanyakumari District at Nagercoil in Cr.M.P.No.986 of 2023, dated 25.02.2023 and quash the same as illegal.



W.P.(MD) No.5277 & 5278 of 2023

PRAYER (in W.P.(MD) No.5278 of 2023): Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records of the impugned order passed by the learned Chief Judicial Magistrate, Kanyakumari District at Nagercoil in Cr.M.P.No.989 of 2023, dated 25.02.2023 and quash the same as illegal.

For Petitioner : Mr.R.J.Karthick
(in both W.Ps.)

For Respondents : Mr.D.Sivaraman
(in both W.Ps.) Standing Counsel

COMMON ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Admit.

2. Mr.D.Sivaraman, learned Standing Counsel, takes notice for the respondent – bank.

3. Challenge in these writ petitions is to the orders dated 25.02.2023, passed in Cr.M.P.Nos.986 & 989 of 2023, by the learned Chief Judicial Magistrate, Kanyakumari District at Nagercoil.



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4. Though the learned counsel for the petitioner would raise several contentions, he would add that the petitioner would settle the entire loan, if he is given some indulgence.

5. Learned counsel appearing for the respondent – Bank would submit that the order under challenge in the present writ petitions is only an order passed under Section 14 of SARFAESI Act and the Division Bench of this Court has held that the writ petitions challenging those orders are not maintainable.

6. We find that this is a fit case, where we could give an opportunity to the petitioner to liquidate the loan, without going into the merits of the controversy.

7. Hence, the writ petition is disposed of with the following directions:

- (i) The respondent – Bank shall defer further proceedings pursuant to the impugned orders dated 25.02.2023, passed in Cr.M.P.Nos.986 & 989 of 2023, by the learned Chief Judicial Magistrate,



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Kanyakumari District at Nagercoil, if the petitioner pays 25% of the amount outstanding to the respondent – Bank, on or before 15.04.2023.

- (ii) The petitioner shall pay the balance amount in six equated monthly installments commencing from May, 2023. The monthly instalments shall be paid on or before 15th of every succeeding month.
- (iii) The interest payable for the interregnum period and the cost incurred by the respondent – Bank so far shall be paid by the petitioner along with the last installment.
- (iv) The respondent – Bank can proceed further, if there is a default on the part of the petitioner in payment of two monthly installments.

No costs. Consequently, connected miscellaneous petitions are closed.

[R.S.M., J.]

[L.V.G., J.]

13.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:
The Chief Judicial Magistrate,
Kanyakumari District at Nagercoil.



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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

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