



W.P.(MD)No.5445 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2023

CORAM

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.(MD)No.5445 of 2023
and
W.M.P(MD)No.5094 of 2023

1.S.Pandiyarajan
2.S.Rajapandi

: Petitioners

Vs.

M/s IDFC First Bank Ltd.,
Rep. By its Authorized Officer,
Mr.C.Kannan

: Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the order dated 07.11.2022 in Cr.M.P.No. 1670 of 2022 on the file of the learned Chief Judicial Magistrate, Madurai quash the same, as the same is arbitrary, ultravires and contrary to the provisions of the SARFAESI Act, 2002 and violation of principal of natural justice.

For Petitioner : M/s.P.Vimala Devi

For Respondent : Mr.A.Sivasubramanian



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ORDER

(order of the Court was made by S.S.Sundar, J.)

The writ petition is filed challenging the order of the learned Chief Judicial Magistrate, Madurai in Cr.M.P.No.1670 of 2022, dated 07.11.2022 and in the application filed by the Bank under Section 14 of SARFAESI Act, 2002.

2. This writ petition was admitted and this Court has granted an interim order on condition to pay certain amounts. Since the petitioner was unable to pay the money within the time stipulated in the conditional order, this Court also gave extension of time by order dated 04.07.2023 in W.M.P(MD)No.13118 of 2023. The time was extended till today. Even then the petitioner is unable to report compliance, despite time being given.

3. The learned counsel appearing for the petitioner states that some more time may be granted.

4. Since the writ petition is filed challenging the order in the application under Section 14 of the SARFAESI Act, 2002, the



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petitioner has an effective alternative remedy of approaching the Debts Recovery Tribunal. This Court entertained the writ petition, as the Debts Recovery Tribunal was not functioning as there was no Presiding Officer. Since the Presiding Officer is now appointed, this Court finds that the writ petition can be disposed of with a direction to the petitioner to approach the Debts Recovery Tribunal for appropriate relief.

5. Accordingly, the writ petition is dismissed. No costs. However, liberty is given to the petitioner to challenge the same order before the Debts Recovery Tribunal. The little amount paid by the petitioner may also be projected before the Debts Recovery Tribunal for seeking appropriate direction. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]

27.07.2023

NCC : Yes / No
Index : Yes/No
Internet : Yes/No
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S.S.SUNDAR, J.
AND
D.BHARATHA CHAKRAVARTHY,J.

sjj

To

The Chief Judicial Magistrate, Madurai.

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