



W.P.(MD) No.5514 of 2023

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.5514 of 2023

and

W.M.P.(MD) Nos.5128, 5130 and 5131 of 2023

1.A.Ponmathi

2.O.Ramar @ Alaguramar

... Petitioners

-VS-

Mahindra Rural Housing Finance Ltd.,
Rep. by its Authorized Officer,
Mrs.A.Balapratheepa,
Having Office at 2/3, G.V.Towers 3rd Floor,
Melakkal Main Road,
Opposite to Fenner India Ltd.,
Madurai.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the Chief Judicial Magistrate Court, Sivagangai in Cr.M.P.No.600 of 2023 dated 10.02.2023 and quash the same as illegal and consequently direct the respondent finance bank to accept the One Time Settlement (OTS) with six installments and also direct not to attach the petitioner's dwelling house.



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W.P.(MD) No.5514 of 2023

For Petitioners : Mr.S.Arivalagan

For Respondent : Mr.C.Gangai Amaran, Standing Counsel

ORDER

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

Admit.

2. Mr.C.Gangai Amaran, Standing Counsel, takes notice for the respondent – Financial Institution.

3. Challenge in this writ petition is to the order, dated 10.02.2023, passed by the Chief Judicial Magistrate, Sivagangai, appointing an Advocate Commissioner for taking possession of Secured Assets and to hand over the same to the Financial Institution.

4. Learned counsel for the petitioners has tendered a Demand Draft for Rs.50,000/-(Rupees Fifty Thousand Only) in the name of the respondent – Financial Institution.



W.P.(MD) No.5514 of 2023

5. Learned Standing Counsel for the respondent – Financial Institution, would submit that the Financial Institution has waited enough and if at all there should be any indulgence to be shown to the petitioners, it should be only conditional.

6. Considering the overall circumstances, the writ petition is disposed of with the following directions:

- (i) The Advocate Commissioner shall not take possession of the Secured Assets if he had not already taken possession.
- (ii) The petitioners shall pay a sum of Rs.1,00,000/- (Rupees One Lakh only) by 14.04.2023.
- (iii) The petitioners shall pay the remaining amount of Rs.1,22,266/- (Rupees One Lakh Twenty Two Thousand Two Hundred and Sixty Six Only), on or before 15.05.2023.
- (iv) The interest that accrues in the interregnum period and costs incurred by the Financial Institution shall be paid by 15.06.2023.



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W.P.(MD) No.5514 of 2023

- (v) If there is any default in payment of these moneys, as directed above, the Advocate Commissioner will be free to take possession of the property.
- (vi) If the Advocate Commissioner had already taken possession of the property, he shall restore possession to the petitioners, immediately.

No costs. Consequently, connected miscellaneous petitions are closed.

[R.S.M., J.]

[L.V.G., J.]

13.03.2023

NCC : No
Index : No
Internet : Yes

PM

Note: Upload the order today itself.



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W.P.(MD) No.5514 of 2023

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

pm

W.P.(MD) No.5514 of 2023

13.03.2023