



W.P.(MD) No.5709 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2023

CORAM:

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

**W.P.(MD) No.5709 of 2023
and
W.M.P.(MD) No.5317 of 2023**

V.K.R.Educational Trust
rep.by its Managing Trustee
Door No.828F, Soolakkarai Medu
Soolakkarai Post, Virudhunagar District
-vs-

... Petitioner

Authorized Officer
State Bank of India
1st Floor, Dharma Buildings
No.185, Madurai Road
Aruppukottai-626 101, Virudhunagar

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned possession notice dated 08.03.2023, issued by the respondent Bank by invoking Rule 8(1) of SARFAESI Act against the petitioner Trust and Educational Institution and quash the same as illegal and consequentially direct the respondent Bank to grant reasonable time for repaying the entire loan amount.



WEB COPY

W.P.(MD) No.5709 of 2023

For Petitioner : Mr.B.Jeyakumar

For Respondent : Mr.P.Pethu Rajesh, Standing Counsel

ORDER

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

Mr.P.Pethu Rajesh, learned Standing Counsel, takes notice for the respondent – Bank.

2. Challenge in this writ petition is to the possession notice, dated 08.03.2023, issued by the respondent – Bank.

3. Learned counsel for the petitioner would submit that the petitioner – Trust is running an Educational Institution and therefore, the petitioner should be given an opportunity to liquidate the debt. He would also add that after issuance of the possession notice earlier, the petitioner has paid a sum of Rs.35 Lakhs and the same has also been credited to the respondent – Bank and the balance amount is around Rs.1.79 Crores.



W.P.(MD) No.5709 of 2023

WEB COPY

4. Learned counsel for the petitioner would further submit that certain monies that are receivable from the Government have not been received by the petitioner and hence, the default had occurred.

5. Learned Standing Counsel appearing for the respondent – Bank would submit that repayment of the loan cannot be made dependant on receipt of money from the Government. He would also submit that enough and more opportunities have been given to the petitioner and therefore, the respondent – Bank should be permitted to proceed further in accordance with law.

6. At the end of the day, the Bank will have to collect its money and taking possession of the secured asset will not yield any liquidity for the Bank. We are , therefore, of the opinion that the petitioner should be given a chance to liquidate the debt. Hence, the writ petition is disposed of with the following directions:

- (i) The petitioner shall pay a sum of Rs.39,00,000/- (Rupees thirty nine lakhs only), either one installment or two instalments, to the respondent – Bank, on or before 30.03.2023.



WEB COPY

W.P.(MD) No.5709 of 2023

- (ii) On such payment, the respondent – Bank shall defer further action pursuant to the impugned possession notice.
- (iii) The balance amount shall be paid by the petitioner in five equated monthly installments commencing from May, 2023. The monthly instalments shall be paid on or before 10th of every succeeding month.
- (iv) The interest payable for the interregnum period and cost for publication shall be paid by the petitioner along with the last installment.
- (v) 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 petition is closed.

[R.S.M., J.]

[L.V.G., J.]

16.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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W.P.(MD) No.5709 of 2023

R.SUBRAMANIAN, J.
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krk

W.P.(MD) No.5709 of 2023
and
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16.03.2023