BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2023

CORAM:

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

W.P.(MD) No.6063 of 2023
and
W.M.P.(MD) No.5725 of 2023

Kannan ... Petitioner

-vs-

The Authorized Officer
State Bank of India
Madurai AD Branch
Corporation Buildings
RMS Road
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 relating to the impugned possession notice issued by the respondent Bank dated 14.06.2022 and to quash the same as illegal.

For Petitioner : Mr.A.B.Jeeva

For Respondent : Mr.R.Pandivel, Standing Counsel

O R D E R

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

Admit.

2. Mr.R.Pandivel, Standing Counsel, takes notice for the respondent – Bank.

3. Challenge in this writ petition is to the possession notice dated, 14.06.2022, issued by the respondent – Bank.

4. Learned counsel for the petitioner would submit that the petitioner had paid Rs.5,00,000/- (Rupees five lakhs only) to the respondent – Bank even during February, 2023, however, the respondent – Bank has, instead of crediting the said amount to the loan account, credited to the Savings Account. Further, he would add that if the petitioner is given sometime, the petitioner would liquidate the entire loan.

5. Learned Standing Counsel for the respondent – Bank would submit that the amount due from the petitioner is Rs.22,25,118/- and the learned Chief Judicial Magistrate, Madurai, has also passed an order dated 19.09.2022, under Section 14 of SARFAESI Act, appointing Advocate Commissioner to take possession of the secured asset. However, if at all there should be any indulgence to be shown to the petitioner, it should be only conditional.

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

(i) The petitioner shall transfer the sum of Rs.5,00,000/- (Rupees five lakhs only) said to have been paid to the respondent – Bank during February, 2023 and credited to the Savings Account, to the loan account, by 30.03.2023.

(ii) The petitioner shall pay further a sum of Rs.2,25,118/- (Rupees two lakhs twenty five thousand one hundred and eighteen only) to the respondent – Bank, on or before 30.03.2023.

(iii) On such payments, the respondent – Bank shall defer the further proceedings.

(iv) The petitioner shall pay the balance amount of Rs.15,00,000/- (Rupees fifteen lakhs only) in four equated monthly installments commencing from April, 2023. The monthly instalments shall be paid on or before 20th of every succeeding month.

(v) The interest payable for the interregnum period and the cost incurred by the respondent – Bank shall be paid by the petitioner along with the last instalment.

(vi) The respondent – Bank can proceed with further, if there is a default in payment of the monthly installments.

No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.] **[L.V.G., J.]**

20.03.2023

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

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

krk

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