



W.P.(MD) No.6237 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2023

CORAM:

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

W.P.(MD) No.6237 of 2023

and

W.M.P(MD)Nos.5935 and 5936 of 2023

C.Kumarasamy @ Jayaraman

... Petitioner

-VS-

1.The Reserve Bank of India,
Rep. by its General Manager,
Reserve Bank of India,
Parry Corner,
Chennai.

2.The South Indian Bank,
Rep. by its Chief Manager,
Authorized Officer,
YMCA Building,
70 feet Road, Ellis Nagar,
Madurai.

3.The Senior Manager,
South Indian Bank,
No.2G/2, RMKV Building,
Thirunelveli.

4.The Registrar,
Debt Recovery Tribunal,
Madurai.

5.The Sub Registrar,
Melapalayam,
Thirunelveli District.

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the second respondent in Ref.No.RO-MDR/GEN594/22-23, dated 13.03.2023, quash the same.

For Petitioner : Mr.Palanivelrajan, Senior Counsel for
Mr.K.Prabakaran

For R-1 : Mr.K.Govindarajan,
Deputy Solicitor General of India

For R-2 & R-3 : Mr.R.Pandian,
Standing Counsel

For R-5 : Mr.M.Prakash,
Additional Government Pleader

ORDER

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

Challenge in the writ petition is to the order of the second respondent bank cancelling the One Time Settlement that was sanctioned since the borrower did not comply with the conditions relating to withdrawal of cases before the Debts Recovery Tribunal.

2. As regards of payment of debt, it is conceded that the borrower has paid the entire amount as sanctioned in the One Time Settlement proposal. Since the entire issue appeared to be very technical, we had entertained the writ petition and required the borrower to withdraw the appeals filed before



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the Debts Recovery Tribunal. In compliance, the borrower has withdrawn two Sarfaesi Appeals namely S.A.No.172 of 2021 and S.A.No.138 of 2021 filed by him and unnumbered sarfaesi appeal in S.A.SR.No.9001 of 2021. The orders of withdrawal have also been produced before us. Hence, the only ground on which the bank recalled the One Time Settlement Proposal stands effaced. In the light of such compliance, we quash the order of the second respondent, dated 13.03.2023 and direct the second respondent bank to hand over the actual possession of the secured asset to the borrower.

3. At this juncture, Mr.R.Pandivel, the learned standing counsel appearing for the bank would submit that a third party namely one M/s.Prabhu Spinning Mills(P) Limited, had made a claim and filed an interlocutory application, claiming title over certain goods that are inside the premises and requiring the bank to return the goods to it.

4. It is now agreed by the learned counsel appearing for the parties that a settlement has been reached between the borrower and the claimant namely M/s.Jeyaram Textiles and M/s.Prabhu Spinning Mills(P) Limited respectively. As per the settlement, M/s.Prabhu Spinning Mills(P) Limited has addressed a letter, dated 01.03.2023, to the Authorized Officer of the South Indian bank Ltd., Tirunelveli, requiring him to hand over possession of the secured asset to the borrower and assuring the bank that they would



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claim the goods from the borrower. The said letter also states that the claimant namely M/s.Prabhu Spinning Mills(P) Limited, does not have any objection for the bank releasing the entire stocks to the borrower namely M/s.Jayaram Textiles. The borrower has also addressed a letter, dated 02.03.2023, to the Authorised Officer of the South Indian Bank, Tirunelveli, requiring the bank to release the factory building along with machineries and stocks to the borrower. In the light of such settlement, which has been reached between the parties, we do not find any difficulty in the bank handing over possession to the borrower.

5. The writ petition stands allowed. The bank will hand over the secured asset to the borrower and the claimant namely M/s.Prabhu Spinning Mills (P) Limited, will claim the goods from the borrower. No Costs. Consequently, connected miscellaneous petitions stand closed.

[R.S.M., J.]

[L.V.G., J.]

21.04.2023

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



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and
L.VICTORIA GOWRI, J.

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