



W.P.(MD)No.6954 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS. JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.6954 of 2023

Tamilselvi

: Petitioner

Vs.

Bank of Baroda,
Devakottai Branch,
Rep. by the Authorized Officer,
S.Bakialakshmi.

: Respondent

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the respondent not to take possession of the dwelling house belongs to the petitioner on the basis of the petitioner's representation dated 09.03.2023.

For Petitioner : Mr.N.Madhava Govindan

For Respondent : Mr.P.Pethu Rajesh
Standing Counsel



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ORDER

(Order of the Court was made by R.SUBRAMANIAN, J)

Mr.P.Pethu Rajesh, learned Standing Counsel takes notice for the respondent. By consent, this writ petition is taken up for final disposal at the admission stage itself.

2.Challenge is to the possession notice issued by the Advocate Commissioner pursuant to the order of the Chief Judicial Magistrate made in Cr.M.P.No.963/2023.

3.The petitioner ought to have challenged the order of the Chief Judicial Magistrate. In any event, considering the fact that the amount due is only Rs.6,75,000/- and the petitioner is a widow, we do not propose to drive the petitioner to another litigation.



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4.The learned counsel for the petitioner would submit that the petitioner would be able to liquidate the loan, if she is given some time. He would also add that the default occurred because of the demise of her husband, who was the borrower.

5.Considering the overall circumstances, this writ petition is disposed of with the following directions:-

(i) The bank shall not take possession of the property in execution of the order of the Chief Judicial Magistrate, if the petitioner pays a sum of Rs.2,75,000/- on or before 25.05.2023.

(ii) The remaining amount of Rs.4.00,000/- shall be paid in 6 equal monthly installments commencing from 25.05.2023.

(iii) The interest accrued in the interregnum shall be paid along with the last installment.



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(iv) If there is any default in payment, the bank can proceed further.

No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.] & [L.V.G., J.]
29.03.2023

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



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