



W.P.(MD) No.8133 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2023

CORAM:

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

W.P.(MD) No.8133 of 2023
and
W.M.P.(MD) No.7518 of 2023

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... Petitioner

-VS-

- 1.The Regional Manager
Indian Overseas Bank
Cantonment, Trichy
- 2.The Authorized Officer
Indian Overseas Bank
Manthurai Branch
Lakshmi Priya Building
121, Main Road
Manthurai, Lalgudi, Trichy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents not to proceed with the action in furtherance to the possession notice which was issued under Section 13(4)



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of the SARFAESI Act, 2002 r/w Rule 8 of Security Interest (Enforcement) Rules 2002, dated 24.03.2023 by the second respondent herein and to direct the respondents to consider the representation dated 21.03.2023 for arriving at amicable settlement under One Time Settlement policy of the respondents.

For Petitioner : Mr.Silverster Raj

For Respondents : Mr.R.Pandivel

ORDER

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

In view of the fact that the Debts Recovery Tribunal, Madurai, is not manned, we are entertaining this writ petition.

2. Mr.R.Pandivel, learned counsel, takes notice for the respondent – Bank.

3. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.



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4. Challenge in this writ petition is to the possession notice, dated 24.03.2023, issued by the respondent – Bank, under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002, seeking possession of the secured asset.

5. Though the learned counsel for the petitioner would submit that the petitioner is unable to repay the loan due to her family circumstances and family disputes, we do not think that we can go into the said questions in a writ petition under Article 226 of the Constitution of India. However, we find that this is a fit case, where the petitioner should be given a chance to liquidate the entire debt.

6. According to the learned counsel appearing for the respondent – Bank, the amount due is Rs.22,20,000/- as of today.

7. The respondent – Bank will not proceed to take possession of the secured asset, if the petitioner pays a sum of Rs.7,20,000/- (Rupees seven lakhs and twenty thousand only) to the respondent – Bank, on or before 12.05.2023.



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8. The balance amount shall be paid by the petitioner in five equated monthly installments commencing from June, 2023. The monthly instalments shall be paid on or before 20th of every succeeding month.

9. The interest payable for the interregnum period and cost for publication shall be paid by the petitioner along with the last installment.

10. The respondent – Bank can proceed further, if there is a default in payment as directed above.

11. The writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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