

W.P.(MD) No.9135 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2023

CORAM:

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

**W.P.(MD) No.9135 of 2023
and
W.M.P.(MD) Nos.8256 & 8257 of 2023**

M.Sudha

... Petitioner

-vs-

1.Cholamandalam Investment and
Finance Ltd.
Rep.by its Authorized Officer
B11, Star Towers, 1st Floor
Colony Main, 11th Cross
Thillai Nagar, Trichy

2.M.Rajesh Kannan
Advocate Commissioner
No.5A, Sakaji Street
Near Win Way Water Company
Kumbakonam-612 001

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue
a writ of certiorari calling for the records pertaining to the impugned order in
Crl.M.P.No.3 of 2023, dated 17.02.2023, passed by the learned Chief Judicial

Magistrate, Thanjavur, under Section 14 of the SARFAESI Act, 2002, and the subsequent possession notice dated 29.03.2023, issued by the second respondent, quash the same.

For Petitioner : Mr.S.Ramu

For Respondents : Mr.V.Sukumar for R1

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.V.Sukumar, learned counsel, takes notice for the respondent – Finance Company.

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

4. Challenge in this writ petition is to the order dated 17.02.2023, passed in Cr.M.P.No.3 of 2023, by the learned Chief Judicial Magistrate,

Thanjavur, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

5. The petitioner would submit the petitioner's son borrowed money by pledging her property, but, he died in the year 2022. She would also plead that if sometime is given, she would liquidate the debt.

6. Considering the untimely death of the petitioner's son and the fact that the secured asset is a residential house, we find that the petitioner should be given a chance to liquidate the debt. Hence, this writ petition is disposed of with the following directions:

- (i) The respondent – Bank shall not take possession of the secured asset, if the petitioner pays a sum of Rs.5,94,176/- (Rupees five lakhs ninety four thousand one hundred and seventy six only) to the respondent – Bank, on or before 20.05.2023.
- (ii) The balance amount of Rs.20,00,000/- (Rupees twenty lakhs only) 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.

- (iii) The interest payable for the interregnum period and the other expenses shall be paid by the petitioner along with the last installment.
- (iv) If there is a default in payment as directed above, the respondent – Bank can proceed further to take possession of the secured asset as well as for recovery of the amount due.

No costs. Consequently, connected miscellaneous petitions are closed.

[R.S.M., J.]

[L.V.G., J.]

19.04.2023

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

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To:
The Chief Judicial Magistrate,
Thanjavur.

W.P.(MD) No.9135 of 2023

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

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