



W.P.(MD) No.8548 of 2023

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 13.04.2023**

**CORAM:**

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

**W.P.(MD) No.8548 of 2023  
and  
W.M.P.(MD) Nos.7859 & 7860 of 2023**

R.Jeyabal

... Petitioner

-VS-

The Union Bank of India  
(Erstwhile Andhra Bank /  
Corporation Bank)  
represented by R.Sowmya  
Authorized Officer /  
Chief Manager  
No.51A/52, New Road  
Kovilpatti  
Thoothukudi District

... Respondent

**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 passed by the learned Chief Judicial Magistrate, Thoothukudi, dated



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28.10.2022, made in Cr.M.P.No.11240 of 2022, under Section 14 of the SARFAESI Act, 2002, appointing an advocate commissioner for taking physical possession of the subject property and quash the same.

For Petitioner : Mr.S.Suresh

For Respondent : 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 order dated 28.10.2022, passed in Cr.M.P.No.11240 of 2022, by the learned Chief Judicial Magistrate, Thoothukudi, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

**5.** It is stated that the petitioner has challenged the impugned order before the Debts Recovery Tribunal, Madurai, and obtained a conditional order, but he has not complied with the same.

**6.** Learned counsel for the petitioner would submit that the petitioner's application for extension of time is pending before the Debts Recovery Tribunal, Madurai. Further, he would submit that even during the pendency of the extension of time application, the respondent – Bank is attempting to take possession of the secured asset.

**7.** Learned counsel appearing for the respondent – Bank would contend that having not complied with the conditional order passed by the Debts Recovery Tribunal, Madurai, the petitioner is not entitled to any relief before this Court.



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**8.** However, considering the fact that the amount due is only Rs.9,20,000/- (Rupees nine lakhs and two thousand only) and the fact that the secured asset is a residential house, we are of the opinion that the petitioner should be given a chance to wipe off the debt and redeem his property. Hence, this writ petition is disposed of with the following directions:

- (i) The respondent – Bank shall defer further proceedings pursuant to the impugned order passed by the learned Chief Judicial Magistrate, Thoothukudi.
- (ii) The petitioner shall pay a sum of Rs.3,00,000/- (Rupees three lakhs only) to the respondent – Bank, on or before 30.04.2023.
- (iii) The balance amount shall be paid by the petitioner in three equated monthly installments commencing from June, 2023. The monthly instalments shall be paid on or before 15<sup>th</sup> of every succeeding month.
- (iv) The interest payable for the interregnum period shall be paid by the petitioner along with the last installment.



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- (v) 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.]**

**13.04.2023**

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

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To:  
The Chief Judicial Magistrate,  
Thoothukudi.



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**and**  
**L.VICTORIA GOWRI, J.**

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