



W.P.(MD) No.8997 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.04.2023

CORAM:

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

W.P.(MD) No.8997 of 2023

and

W.M.P.(MD) No.8156 & 8157 of 2023

1.M/s.Care Systems
rep.by its sole proprietor
K.Mathi
O/No.25-B, N.No.146
Kauvery Residency
3rd Floor, Trunk Road
Thiruvanaikovil
Trichy-5
Trichy District

2.Mathi.K.

3.S.Kumarasamy

4.K.Shanmugam

... Petitioners

-vs-

1.The Manager
Karur Vysya Bank
Srirangam Branch
Srirangam, Trichy-6



W.P.(MD) No.8997 of 2023

2.The Authorised Officer
Karur Vysya Bank
Trichy Divisional Office
KVB Towers, Second Floor
Near Income Tax Office
Alexandria Road
Cantonment, Trichy-1
Trichy District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to proceedings made in the possession notice (for immovable property) issued under Rule 8(1) of Security Interest (Enforcement) Rules, 2002, dated 26.12.2022, on the file of the second respondent herein, quash the same.

For Petitioner : Mr.R.Sundar

For Respondents : Mr.R.Pandivel
Standing Counsel

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 Standing Counsel, takes notice for the respondent – Bank.



W.P.(MD) No.8997 of 2023

WEB COPY

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

4. The possession notice, dated 26.12.2022, issued by the respondent – Bank, under Section 8(1) of the Security Interest (Enforcement) Rules, 2002, is under challenge in this writ petition.

5. Learned counsel for the petitioners would submit that the attempted auction failed and the petitioners are ready to liquidate the debt, if sometime is granted to them.

6. Learned Standing Counsel appearing for the respondent – Bank would submit that the outstanding as of today is Rs.24,25,500/- (Rupees twenty four lakhs twenty five thousand and five hundred only).

7. Considering the above representation of the learned counsel for the petitioners as well as the fact that the secured asset is a residential house, an opportunity should be given to the petitioners to liquidate the debt. Hence, this writ petition is disposed of with the following directions:



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W.P.(MD) No.8997 of 2023

- (i) The respondent – Bank shall not proceed to take possession of the secured asset, if the petitioners pay a sum of Rs.6,25,500/- (Rupees six lakhs twenty five thousand and five hundred only) to the respondent – Bank, on or before 19.05.2023.
- (ii) The balance amount shall be paid by the petitioners in four equated monthly installments commencing from June, 2023. The monthly instalments shall be paid on or before 19th of every succeeding month.
- (iii) The interest payable for the interregnum period and the cost for publication shall be paid by the petitioners along with the last installment.
- (iv) In the event there is a default in payment of the amounts as directed above, the respondent – Bank shall proceed with the auction 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

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

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W.P.(MD) No.8997 of 2023

R.SUBRAMANIAN, J.
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(2/2)