



W.P.(MD) No.9228 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2023

CORAM:

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

**W.P.(MD) No.9228 of 2023
and
W.M.P.(MD) No.8309 of 2023**

Jerinabeevi

... Petitioner

-vs-

1.Hinduja Housing Finance Ltd.,
rep.by its Authorised Officer
3rd Floor, Pillars Gate
No.173/27, Balamore Road
Nagarcoil-629 001
Kanyakumari District

2.The Branch Manager
Hinduja Housing Finance Ltd.,
Tirunelveli Branch, Tirunelveli

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records on the file of the first respondent in connection with the impugned possession notice issued by him vide his proceedings No.NIL, dated 22.04.2021 and subsequent appointment of Advocate Commissioner to take over physical possession of the petitioner



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house property situated in Plot No.36 of Survey No.1335/3 to an extent of 2.500 cents of Panagudi Village, Radhapuram Taluk, Tirunelveli District, vide order passed by the learned Chief Judicial Magistrate Court, Tirunelveli, in C.M.P.No.6558 of 2022 dated 03.03.2023 and quash the both as illegal, arbitrary and thereby direct the respondents to provide him an opportunity to settle the entire loan amount availed in A/c.No.TNTN/TLV/NGGL/A000000002 under one time settlement scheme within the time stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.Navaneetha Raja

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.Navaneetha Raja, 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.



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4. The possession notice, dated 22.04.2021, issued by the respondent – Finance Company, is under challenge in this writ petition.

5. Learned counsel for the petitioner would submit that the husband of the petitioner is an agriculturist and the borrowing was made for construction of a residential house in 2.5 cents of land and due to crop failure, they are unable to discharge the loan. He would also add that if sometime is given, the petitioner would be able to liquidate the entire debt.

6. Considering the fact that the secured asset is a residential house belonging to a lady, we feel that an opportunity should be given to the petitioner to discharge the entire debt. Hence, the writ petition is disposed of with the following directions:

- (i) The respondent – Finance Company shall defer taking possession of the secured asset, if the petitioner pays a sum of Rs.5,24,755/- (Rupees five lakhs twenty four thousand seven hundred and fifty five only) to the respondent – Finance Company, on or before 20.05.2023.



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- (ii) The balance amount shall be paid by the petitioner in four 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 – Finance Company can proceed further to take possession of the secured asset as well as for recovery of the amount due.

No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

20.04.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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