



W.P(MD)No.10691 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2023

CORAM :

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.P(MD)No.10691 of 2022
and
WMP(MD)Nos.7734 to 7736 of 2022

M.Deepa

... Petitioner

vs.

1. The Chief Judicial Magistrate,
Thoothukudi.

2. The Authorized Officer,
Indian Bank,
Ms University Branch,
Abishekampatti,
Tirunelveli.

3. The Chief Manger/Authorized Officer,
Indian Bank,
Tenkasi.

4. The Authorized Officer,
Indian Bank,
Palayamkottai Branch.



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5. The Branch Manger,
Indian Bank,
Ms University Branch,
Ahishekapatti,
Tirunelveli.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned order dated 28.03.2022 passed by the 1st respondent in Cr.M.P.No.666 of 2022 and impugned E-Auction Sale notice dated 25.04.2022 issued by the 2nd respondent and quash the same.

For Petitioner : Mr.M.Sam Eugene Jebakumar
For R2 to R5 : Mr.C.Karthick

ORDER

(Order of the Court was made by D.KRISHNAKUMAR, J.)

On 01.06.2022, this Court has passed the following order:-

"The present writ petition has been filed challenging the impugned order passed under Section 14 of the SARFAESI Act, dated 28.03.2022 as well as the sale notice, dated 25.04.2022. As per the sale notice, the amount due to the respondent/Bank is Rs.11,12,304/- (Rupees Eleven Lakhs Twelve Thousand Three



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2. According to the learned counsel appearing for the respondents 2 to 5, as on date the due from the writ petitioner is Rs.12,43,741/- (Rupees Twelve Lakhs Forty Three Thousand Seven Hundred and Forty One only). The sale is proposed to be held on 08.06.2022.

3. The learned counsel appearing for the petitioner submits that he is ready with the Demand Draft of Rs.9,50,000/- (Rupees Nine Lakhs and Fifty Thousand only).

4. Considering the fact that the residential property of the petitioner is sought to be taken possession by the respondent/bank, we are inclined to pass the following order:-

(i) there shall be an order of interim stay of the impugned order on condition that the petitioner shall deposit the Demand Draft of Rs.9,50,000/- (Rupees Nine Lakhs and Fifty Thousand only) drawn from the Canara Bank, dated 30.05.2022, with Demand Draft No.630848 in favour of the Manager, Indian Bank, M.S.University Branch, Abishekapatti, before the respondent/Bank tomorrow, i.e., on 02.06.2022.

(ii) On deposit of such Demand Draft before the respondent/Bank, the Bank is directed to hand over the possession of the residential house to the writ petitioner.

(iii) The petitioner is directed to deposit the balance amount within a period of six weeks from the date of receipt of a copy of this order.



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(iv) If any one of the conditions are violated, the respondent/Bank is at liberty to proceed further under the SARFEASI Act.

5. Post the matter on 18.07.2022."

2. Now the learned counsel for the petitioner has disputed the said outstanding amount of Rs.12,43,741/- reflected in the aforesaid interim order of this Court. According to the learned counsel, the petitioner has settled the entire outstanding amount thereby she complied with the aforesaid conditional interim order.

3. Learned counsel for the respondent Bank has strongly objected to the aforesaid submission stating that the petitioner has not settled the entire outstanding amount.

4. However, we cannot go into such disputed question of fact. It is for the petitioner to work out his remedy by approaching the Debts Recovery Tribunal, if so advised. As far as the respondent Bank is concerned, there is no legal embargo to take further action in view



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of the non compliance of the aforesaid interim order dated 01.06.2022
passed by this Court by the petitioner.

5. Accordingly, the Writ Petition is disposed of. No costs.
Connected miscellaneous petitions are closed.

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

[D.K.K.,J.] & [L.V.G.,J.]
16.02.2023

To

The Chief Judicial Magistrate,
Thoothukudi.



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D.KRISHNAKUMAR, J.
and
L.VICTORIA GOWRI, J.

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ORDER MADE IN
W.P(MD)No.10691 of 2022
DATED : 16.02.2023