



W.P(MD)No.11370 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:04.05.2023

CORAM:

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI
AND
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.11370 of 2023
and
W.M.P.(MD)No.11370 of 2023**

S.Subbiah

... Petitioner

Vs.

The Authorized Officer,
Canara Bank,
Palayamkottai Branch,
16, Tiruchendur Road,
Palayamkottai,
Tirunelveli District.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the respondent bank not to execute the order passed by the learned Chief Judicial Magistrate, Tirunelveli in Cr.M.P.No.4054 of 2023, dated 14.03.2023 till the disposal of the stay petition by the Debts Recovery Tribunal, Madurai.

For Petitioner : Mr.S.Suresh for
Mr.M.Arunachalam

For Respondent : Mr.C.Deepak,
Standing Counsel



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ORDER

(Order of the Court was made by M.DHANDAPANI, J)

This writ petition has been filed to direct the respondent bank not to execute the order passed by the learned Chief Judicial Magistrate, Tirunelveli in Cr.M.P.No.4054 of 2023, dated 14.03.2023, till the disposal of the stay petition by the Debts Recovery Tribunal, Madurai.

2. Mr.C.Deepak, learned standing counsel takes notice for the respondent.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a Government Contractor and doing construction business. He availed credit facilities from the respondent bank by mortgaging his five properties. However, due to covid-19 pandemic, the petitioner was unable to repay the loan amount. Therefore, the petitioner's loan account was declared as "Non Performing Asset" on 22.02.2021. The respondent issued a demand notice on 01.03.2021 under Section 13(2) of the SARFAESI Act, 2002. Thereafter, SARFAESI proceedings was initiated before the Debt Recovery



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Tribunal, Madurai. After issuance of sale certificates in respect of two properties, the respondent bank obtained an order for taking possession of the properties. However, in respect of remaining three properties, no sale certificate was issued. He would further submit that the petitioner is prepared to pay 50% of the outstanding amount of Rs.39,00,000/- and odd, within the reasonable time as fixed by this Court and pay the balance amount in installments in order to protect the three other properties, which are not covered by the two sale certificates.

4. The learned standing counsel appearing for the respondent bank has no serious objection.

5. In view of the above, this writ petition is disposed of with the following terms:

(i) The respondent bank is directed not to proceed further in respect of the three properties of the petitioner, which are not covered under the two sale certificates on condition that the petitioner pays a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs Only), on or before 04.06.2023.



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(ii) The balance amount shall be paid in four equal monthly installments, of which, the first installment shall be paid on or before 05.07.2023 and the subsequent installments shall be paid on or before the 05th day of succeeding months.

(iii) The petitioner is at liberty to approach the respondent for 'One Time Settlement Proposal' and with regard to the sale certificates issued by the respondent bank in respect of two properties.

(iv) In the event of any default in payment of the money as directed above, the Bank can proceed further in accordance with law for the recovery of the loan amount.

No costs. Connected miscellaneous petition is closed.

(M.D.I., J.) (R.V., J.)
04.05.2023

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



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To:

The Chief Judicial Magistrate,
Tirunelveli.



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M.DHANDAPANI, J.

AND

R.VIJAYAKUMAR, J.

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