



W.P(MD)No.11397 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.05.2023

**CORAM:**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**AND**

**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.11397 of 2023**

**and**

**W.M.P.(MD)Nos.9885 and 9886 of 2023**

G.Sekar

... Petitioner

Vs.

1.The Authorized Officer,  
Canara Bank, Regional Office,  
No.310, Usilampatti Road,  
Thirumangalam, Theni-626 706.

2.The Branch Manager,  
Canara Bank,  
Periyakulam Branch,  
Periyakulam,  
Theni District-625 531.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari and Mandamus to call for the records of the Chief Judicial Magistrate Court, Theni impugned order dated 23.02.2023 in Cr.M.P.No.6073 of 2022 and quash the same as devoid of merits consequently direct the respondents to handover the physical possession of the house property in Door No.171G, Ward No.2,



W.P(MD)No.11397 of 2023

A.Melavadipatty, Periyakulam-625 601, Theni District within the period stipulated by this Court.

For Petitioner :Mr.S.AthamAli  
For Respondents :Mr.N.Dilipkumar  
Standing Counsel

**ORDER**  
\*\*\*\*\*

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

Mr.N.Dilipkumar, learned Standing Counsel, takes notice on behalf of the respondents.

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

3.Challenging the order of the learned Chief Judicial Magistrate, Theni, in Cr.M.P.No.6073 of 2022, dated 23.02.2023 filed by the second respondent herein under Section 14 of the SARFAESI Act, this Writ Petition has been filed.

4. The learned Counsel for the petitioner submits that the petitioner obtained loan from the second respondent bank to the tune of Rs.15,00,000/-



W.P(MD)No.11397 of 2023

by mortgaging his house property on 16.10.2020 for agriculture purpose.

However, due to monsoon failure, the petitioner had not repaid the said loan within the time. Therefore, SARFAESI proceedings were initiated by the respondent bank. Though it is stated that the petitioners borrowed a sum of Rs.15,00,000/-, it is admitted that the liability as on date is around a sum of Rs.17,92,106/-. He further submits that the petitioner is now prepared to deposit 25% of total outstanding amount as on date and the remaining amount in equal monthly instalments.

5.The learned Standing Counsel for the respondent bank has no serious objection for the proposal made by the petitioners.

6.Considering the grievance of the petitioner, this Court is inclined to dispose of the Writ Petition in the following lines:

(1)The respondent bank shall defer the sale proceedings pursuant to the order impugned in the present Writ Petition, provided the petitioner shall pay 25% of the amount due as on date, within a period of four weeks from the date of receipt of a copy of this order.

(2)the petitioner shall pay the remaining due amount in five monthly equal instalments. The first instalment shall be paid on or



W.P(MD)No.11397 of 2023

before 04.06.2023 and the remaining four instalments shall be paid on or before the 5<sup>th</sup> day of every English Calendar month.

(3)In case the petitioner fails to pay any one of the instalments, in the manner directed above, it is open to the respondent bank to proceed further in accordance with law, ignoring this order.

(4)The petitioner is also permitted to submit a representation to the respondent bank either for waiver of penal interest or One Time Settlement or for restructuring the loan and other concession, as may be permissible under the guidelines of Reserve Bank of India or the norms applicable to the respondent bank and the respondent bank shall pass appropriate orders in accordance with law and communicate the decision taken to the petitioner.

6.With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

**[M.D.I.,J.]      [R.V.,J.]**  
**04.05.2023**

Index:Yes/No  
Internet:Yes/No  
NCC:Yes/No  
ta/Sj



W.P(MD)No.11397 of 2023

WEB COPY

To

- 1.The Authorized Officer,  
Canara Bank,  
Regional Office,  
No.310, Usilampatti Road,  
Thirumangalam,  
Theni-626 706.
- 2.The Branch Manager,  
Canara Bank,  
Periyakulam Branch,  
Periyakulam,  
Theni District-625 531.



WEB COPY



W.P(MD)No.11397 of 2023

**M.DHANDAPANI, J.**  
**AND**  
**R.VIJAYAKUMAR, J.**

ta/Sj

**ORDER MADE IN**  
**W.P(MD)No.11397 of 2023**

**04.05.2023**