



W.P(MD)No.11405 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

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and

W.M.P.(MD)Nos.9891 and 9892 of 2023

M/s.VSK Medical Agencies,
Represented by Proprietor,
Mr.B.Muthukumar,
6/240, B1-1st Floor, Railway Feeder Road,
Paramakudi-623 707,
Ramanathapuram District.

... Petitioner

Vs.

1.Tamil Nadu Mercantile Bank Ltd.,
Represented by its Authorized Officer,
Paramakudi Branch,
4/323, Gandhiji Street,
Paramakudi-623 707.

2.B.Muthukumar
3.V.Natarajan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorari to call for the record



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pertaining to the alleged impugned order in Cr.M.P.No.680/2021 dated 23.02.2023 on the file of the Chief Judicial Magistrate Court, Ramanathapuram under Section 14 of the SARFAESI Act, 2002 and quash the same as illegal.

For Petitioner :Mr.P.Muthusamy

For R1 :Mr.R.Anandharaj

ORDER

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

Mr.R.Anandharaj, learned Counsel, takes notice on behalf of the first respondent.

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, Ramanathapuram, in Cr.M.P.No.680/2021 dated 23.02.2023 filed by the second respondent herein under Section 14 of the SARFAESI Act, this Writ Petition has been filed.



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4. The learned counsel for the petitioner submits that the petitioner is running a Medical shop in the name and style of VSK Medical Agencies.

For developing the said business, the petitioner had borrowed the loan to the tune of Rs.15 lakhs from the first respondent in the year 2015 by depositing the title deeds of the dwelling house and the properties owned by the third respondent. However, the petitioner had not paid the amount within the time. Therefore, the respondent bank initiated SARFAESI proceedings against the petitioner and third respondent. The petitioner and the third respondent were unsuccessful both before the Deputy Recovery Tribunal and before this Court in respect of the first item of property and a sale certificate was also issued on 07.01.2022 to the beneficiary. In respect of second item of property, the respondent bank is trying to take possession of the said property. However, no sale certificate is issued in favour of any person so far.

5.The learned counsel for the petitioner would submit that the petitioner is not adjudicating the issue with regard to the first item of property, since the sale certificate was issued. Now the petitioner is ready to pay 50% of the outstanding amount in order to protect the interest over the second item property.



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

7.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 50% 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 four monthly equal instalments. The first instalment shall be paid on or before 04.06.2023 and the remaining three instalments shall be paid on or before the 5th 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



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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.

8. 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

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ORDER MADE IN
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