



W.P(MD)No.11450 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.05.2023

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P(MD)No.11450 of 2023
and
W.M.P(MD)No.9940 of 2023**

- 1.M/s.Gurudev Matriculation School,
Represented by its Authorized Signatory,
No.106/3, Sembar, Near Madurai Main Road,
Boothipuram,
Madurai-625 532.
- 2.M/s.Gurudev Educational and Charitable Trust,
Represented by its Authorized Signatory,
No.106/3, Sembar, Near Madurai Main Road,
Boothipuram,
Madurai-625 532.
- 3.R.Gnanasekaran
- 4.G.Adhisdalakshmi

... Petitioners

Vs.

- 1.The Authorized Officer,
M/s.Vardhana Finance Private Limited,
Varasiddhi, 3rd Floor, 5 BC-110 Service Road,
HRBR Layout, Bangalore.
- 2.The Branch Manager,
M/s.Vardhana Finance Private Limited,



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166, Keelapura Street, Upstair Hotel Magil,
Bye Pass Road, Madurai-625 016.

... Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the Auction sale notice Ref.No.SARFAESI/08/2023-2024 dated 18.04.2023 quash the same as illegal, arbitrary and gross violation of principles of natural justice and consequently direct the first respondent to reschedule loan amount and not proceed further under the SARFAESI Act within such period as this Court may deem it fit, proper and appropriate.

For Petitioners :M/s.W.Pamelin

For R1 & R2 :Mr.A.Siva Subramanian
Standing Counsel

ORDER

Heard the learned counsel on either side.

2. The petitioners had availed loan from the second respondent herein and committed default. The secured creditor therefore, invoked the provisions of the SARFAESI Act. The petitioners had earlier filed W.P(MD)No.6348 of 2023, challenging the SARFAESI action and vide order dated 23.03.2023, relief was given to the petitioners in the following terms:



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“3. We find some reasonableness in the submission of the learned Counsel for the petitioners. At the same time, we have to protect the interest of the bank also. On a over all consideration, we require the bank to defer the sale, on condition the petitioners pay a sum of Rs.28,46,295/- on or before 15.04.2023 and the remaining shall be paid on or before 30.06.2023. The interest that accrues during the interregnum and the sale expenses shall also be paid by the petitioners by 30.06.2023. If the petitioners commit any default in payment as aforesaid, the bank is at liberty to proceed with the sale in accordance with law.”

3. The learned counsel for the creditors asserts that not a pie had been paid after the writ petition was disposed of. The learned counsel for the petitioners states that the petitioners are ready to demonstrate their bonafide by paying a sum of Rs.15,00,000/-. The learned counsel for the petitioners is ready with the original Demand Draft itself.

4. We direct the learned Standing Counsel for the respondents to accept the same. The time limit stipulated by this Court on the earlier occasion is extended till 31.05.2023. The petitioners who were directed



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to pay Rs.28,46,295/- on or before 15.04.2023. The time limit is extended till 31.05.2023. The petitioners have now paid Rs.15,00,000/- to the secured creditor and the balance sum of Rs.13,46,295/- (Rupees Thirteen Lakhs Forty Six Thousand Two Hundred and Ninety Five only) will have to be paid by the petitioners on or before 30.06.2023.

5. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S.,J.] [S.S.Y.,J.]
10.05.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
SJ/SN



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G.R.SWAMINATHAN, J.

AND

S.SRIMATHY, J.

SJ/SN

ORDER MADE IN

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10.05.2023