



W.P.(MD) No.12890 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.06.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.12890 of 2023
and
W.M.P (MD) Nos.10918 and 10919 of 2023**

I.Ayappan

... Petitioner

-VS-

1. The Authorized Officer,
APTUS Value Housing Finance India Ltd.,
8b, Doshi Towers, 205,
Poonamallee High Road, Kilpauk, Chennai-600 010.
2. The Branch Manager,
APTUS Value Housing Finance India Ltd.,
Door No.66/1b-1, 1st Floor,
South Bye Pass Road, Vannarpettai,
Tirunelveli - 627 003.



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3. The Chief Judicial Magistrate,
Tirunelveli District, Tirunelveli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent order in Crl.M.P.No.7370 of 2023 towards an application filed by the 1st and 2nd respondents under Section 14 of SARFAESI Act dated 02.05.2023 and quash the same as non-application of mind and consequently direct the respondents to defer all further proceedings under the SARFAESI Act.

For Petitioner : Mr.S.Selvaganapathy

For Respondent : Mr.V.Sukumar for R1 and R2

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

In view of the fact that the Debts Recovery Tribunal, Madurai, is not manned, we are entertaining this writ petition.

2. Mr.V.Sukumar, learned counsel, takes notice for the respondent – Bank.



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

4. The order passed by the learned Chief Judicial Magistrate, Tirunelveli, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, is the subject matter of challenge in the writ petition.

5. Learned counsel appearing for the petitioner would submit that he would be able to liquidate the entire debt, if sometime is granted.

6. Learned counsel appearing for the bank would submit that the amount outstanding as on today is Rs.12,15,295/- (Rupees Twelve Lakhs Fifteen Thousand Two Hundred and Ninety Five only).

7. Considering the nature of the borrowing and the fact that the secured asset is a dwelling house, the writ petition is disposed of with the following directions:



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- (i) We stay all further proceedings pursuant to the possession notice dated 02.05.2023, if the petitioner pays a sum of Rs.4,15,295/- (Rupees Four Lakhs Fifteen Thousand Two Hundred and Ninety Five only) to the respondent – Bank, on or before 20.07.2023.
- (ii) The remaining amount of Rs.8,00,000/- (Rupees Eight Lakhs only) shall be paid by the petitioner in eight equated monthly installments commencing from 20th August, 2023. The monthly installments shall be paid on or before 20th of every succeeding month.
- (iii) The interest that accrues in the interregnum and the cost of the sale shall be paid along with the last installment.
- (iv) If there is a default in payment as directed above, the respondent – Bank can proceed further to take possession of the secured asset as well as for recovery of the amount due.



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WEB COPY No costs. Consequently, connected miscellaneous petitions are closed.

[R.S.M., J.]

[L.V.G., J.]

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NCC : No
Index : No
Internet : Yes
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L.VICTORIA GOWRI, J.

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