

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Monday, the Third day of July Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice S.VAIDYANATHAN

AND

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

WMP(MD). No.11442 of 2023

in

W.P.(MD) No.10581 of 2022

S.Sivaraman, S/o.Shinnupandian,
Plot No.1, Anbu Nagar,
Rajan Nagar Near,
Thiruppalai,
Madurai- 625 014.

... Petitioner

Vs

The Authorized Officer,
Fullerton India Home Finance Company Limited,
2nd Floor, No.163, Kammarajar Salai,
Parameswar Complex,
Madurai-625 009.

... Respondent

Prayer in WMP(MD)No.11442 of 2023 :-

Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, praying this Court to pass extend the period of payment of installments by modifying the Order dated 09.03.2023 in WP (MD).No.10581 of 2022 passed by this court.

Prayer in W.P.(MD)No.10581 of 2022:

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Ceterari, calling for the records relating to Impugned Order dated 07.04.2022 in Cr.M.P.No.243/2022 passed by the Learned Chief Judicial Magistrate, Madurai, and quash the same.

ORDER:- This Writ Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.B.Rajesh Saravanan, Advocate for the Petitioner and of Mr.A.Balaji, Advocate for the respondent, this Court made the following order:

[Order of the Court was made by S.VAIDYANATHAN, J.]

This petition has been filed to extend the period of payment of instalments by modifying the order dated 09.03.2023 in W.P(MD)No.10581 of 2022.

2. When the matter is taken up for hearing, learned counsel appearing for the petitioner has produced a demand draft bearing No.839478, dated 06.06.2023, for a sum of Rs.2,00,000/-, drawn in favour of the respondent and submitted that now the petitioner is willing to hand over the said demand draft to the respondent and that the balance amount would be paid within a period of thirty days.

3. In view of the above submission, the petitioner is directed to hand over the aforesaid demand draft for Rs.2,00,000/- to the respondent forthwith. We make it very clear that the remedy of the petitioner lies only before the Debts Recovery Tribunal. However, since this Court has already passed the order, this Court is extending the time for a period of one month from the date of receipt of a copy of this order, for payment of the balance outstanding amount. It is needless to mention that on receipt of the aforesaid sum of Rs.2,00,000/- and on filing of an affidavit by the petitioner to the effect that he will pay the remaining outstanding amount within a period of thirty days, it is open to the respondent to de-seal the premises and hand over the key of the secured premises to the petitioner. We make it very clear that in case of default in payment of the balance amount within the aforesaid period of one month, it is open to the respondent to initiate contempt proceedings. In the contempt proceedings in this kind of nature, the arrest of the contemnor should be primary and fine should be secondary.

4. With the above direction, this petition is allowed.

Sd/-

Assistant Registrar()

// True Copy //

04/07/2023

Sub Assistant Registrar(CS)

TO

The Authorized Officer,
Fullerton India Home Finance Company Limited,
2nd Floor, No.163, Kammarajar Salai,
Parameswar Complex,
Madurai-625 009.

Copy to:

The Section Officer,
Writ Section, (Posting)
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.B.RAJESH SARAIVANAN, Advocate SR.No.32338

ORDER DATED : 03/07/2023

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ORDER
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WMP (MD) . No.11442 of 2023
in
W.P. (MD) No.10581 of 2022

Giving direction and etc.
as stated within.

MK/04.07.2023 3P 4C