



W.P(MD)No.13377 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.13377 of 2023

and

WMP(MD)Nos.11281 and 11284 of 2023

1.Dhanaraj
2.Subadevi

3.Maxican Export,
No.8/132, Andan Kovil Road,
Amaravathy Nagar,
Karur.

... Petitioners

vs.

The Authorized Officer,
Cholamandalam,
Investments and Finance Company Ltd.,
Erode Branch,
Erode.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the learned Chief Judicial Magistrate, Karur in Crl.M.P.No.3622 of 2023, dated 17.05.2023 and quash the same as illegal and consequently direct the respondent bank not to attach the petitioner's dwelling house and also allow us to continue to pay the forthcoming EMIs to the loan account numbers XOHEKRU00003296743 and HE02KRU00000001906.



W.P(MD)No.13377 of 2023

For Petitioners : Mr.I.Velpradeep
For Respondents : Mr.P.Pethurajesh

WEB COPY

ORDER

(Order of the Court was made by R.SUBRAMANIAN, J.)

The challenge is to the order of the learned Chief Judicial Magistrate, Karur in CrI.M.P.No.3622 of 2023, dated 17.05.2023, under Section 14 of the SARFAESI Act, 2002.

2. Since the Debts Recovery Tribunal is not manned, we are entertaining this writ petition.

3. Heard Mr.I.Velpradeep, learned counsel for the petitioner and Mr.P.Pethurajesh, learned Standing Counsel, who takes notice for the respondent – Financial Institution.

4. Unfortunately, the account of the petitioners was classified as 'Non Performing Asset' because of the failure of the petitioners to pay four equated monthly installments. The equated monthly installments for the two loans comes to around Rs.2,20,569/-. Therefore, the entire default itself roughly comes to around Rs.10,00,000/-.



W.P(MD)No.13377 of 2023

5. The learned standing counsel for the respondent – Financial Institution upon instructions would submit that the respondent is willing to regularize the account if the petitioners pay a sum of Rs.50,00,000/-.

6. The learned counsel for the petitioners offers to pay Rs.25,00,000/-.

7. Considering the offer and the counter offer, we are of the opinion that the petitioners could be directed to pay a sum of Rs.40,00,000/- in two installments within a period of two months. The first installment shall be paid on or before 07.07.2023 and the second installment shall be paid on or before 07.08.2023. Upon such payment, the respondent – Financial Institution will regularize the account of the petitioners and the petitioners will be permitted to continue to pay the EMI fixed.

8. In the event of failure on the part of the petitioners to comply with the directions relating to payment of Rs.40,00,000/-, the respondent can proceed further. The respondent will also at liberty to proceed further in execution of the order of the learned Chief Judicial Magistrate if the petitioners commit a default in payment of two consecutive EMIs after regularization of the account.



W.P(MD)No.13377 of 2023

9. With the above directions, the Writ Petition stands disposed of.

No Costs. Consequently, connected miscellaneous petitions are closed.

(R.SUBRAMANIAN, J.) & (L.VICTORIA GOWRI, J.)
08.06.2023

Index : Yes / No

Neutral Citation : Yes / No

pm



WEB COPY



W.P(MD)No.13377 of 2023

R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

pm

ORDER MADE IN
W.P(MD)No.13377 of 2023

DATED : 08.06.2023