



W.P.(MD) Nos.13402 & 16841 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.(MD) Nos.13402 & 16841 of 2023

and

W.M.P.(MD) Nos.11310, 11311, 14024, 14064 & 14065 of 2023

W.P.(MD) No.13402 of 2023:

1.M/s.Gurudev Educational and Charitable Trust
rep.by its Authorized Signatory
No.106/3, Sembar, Near Madurai Main Road
Boothipuram, Madurai-625 532
also at
M/s.Gurudev Matriculation School
rep.by its Authorized Signatory
No.106/3, Sembar, Near Madurai Main Road
Boothipuram, Madurai-625 532

2.R.Gnanasekaran

3.G.Adhisdalakshmi

... Petitioners

-VS-

1.The Authorized Officer
M/s.Auxilo Finserve Private Limited
No.63, 6th Floor, Kalpataru Square
Kondivita Road, Andheri East
Mumbai-400 059



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2.The Branch Manager
M/s.Auxilo Finserve Private Limited
Orchid Center First Floor
71, Kannappan Street
Nelson Manickam Road
Aminjikarai, Chennai-29

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the symbolic possession notice dated 16.03.2023 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.

For Petitioners : Mr.T.Lajapathi Roy, Senior Counsel
assisted by Ms.W.Pamelin

For Respondents : Mr.A.Sivasubramanian

W.P.(MD) No.16841 of 2023:

1.M/s.Gurudev Educational and Charitable Trust
rep.by its Authorized Signatory
No.106/3, Sembar, Near Madurai Main Road
Boothipuram, Madurai-625 532
also at
M/s.Gurudev Matriculation School
rep.by its Authorized Signatory
No.106/3, Sembar, Near Madurai Main Road
Boothipuram, Madurai-625 532



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2.R.Gnanasekaran

3.G.Adhisdalakshmi

... Petitioners

-vs-

Auxilo Finserve Private Limited
rep.by its Regional Authorized Officer
J.Gomes, Branch Office at
Orchid Center First Floor
71, Kannappan Street
Nelson Manickam Road
Aminjikarai, Chennai-29

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for orders passed by the learned Chief Judicial Magistrate in CrI.M.P.No.296/2023, dated 12.05.2023 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 SARFAESI Act.

For Petitioners : Mr.T.Lajapathi Roy, Senior Counsel
assisted by Ms.W.Pamelin

For Respondent : Mr.A.Sivasubramanian



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COMMON ORDER

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

W.P.(MD) No.13402 of 2023 is filed challenging the possession notice issued by the respondent – Bank. Whereas, W.P.(MD) No.16841 of 2023 is filed challenging the order dated 12.05.2023, passed in Cr.M.P.No.296 of 2023, by the learned Chief Judicial Magistrate, Madurai, under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

2. Today, when the matter was taken up for hearing, learned counsel for the petitioners sought permission of this Court to withdraw these writ petitions with liberty to the petitioners to approach the Debts Recovery Tribunal for appropriate relief and she has also made an endorsement to that effect.

3. Considering the nature of the relief sought for and the settled position, permission is granted to the learned counsel for the petitioners and the writ petitions are dismissed as withdrawn with liberty to the petitioners to approach the Debts Recovery Tribunal for appropriate relief as against the



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orders impugned in the present writ petitions. To be noted, the petitioners may convince the Debts Recovery Tribunal to exclude the time taken by them for pursuing their remedy before this Court in the present writ petitions. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.]

[D.B.C., J.]

18.07.2023

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:
The Chief Judicial Magistrate,
Madurai.



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S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

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