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.13415 of 2023
and
W.M.P.(MD) No.11325 & 11326 of 2023

Hayath Basha ... Petitioner

-vs-

M/s.The Union Bank of India
Rep.by its Authorised Officer
Salai Road, Ramanathapuram Branch
Ramanathapuram ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order passed by the learned Chief Judicial Magistrate, Ramanathapuram, in Cr.M.P.No.1580 of 2023, dated 28.04.2023 and quash the same as illegal and consequently direct the respondent to consider the petitioner's request for one time settlement in respect of the loan account No. 357006650069091.

For Petitioner : Mr.K.Navaneetharaja

For Respondent : Mr.S.Babu

O R D E R

[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.S.Babu, learned counsel, takes notice for the respondent – Bank.

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

4. Challenge in this writ petition is to the order dated 28.04.2023, passed in Cr.M.P.No.1580 of 2023, by the learned Chief Judicial Magistrate, Ramanathapuram, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

5. The amount due as of today is Rs.86,03,784/- (Rupees eighty six lakhs three thousand seven hundred and eighty four only).

6. Learned counsel for the petitioner would submit that the petitioner would be in a position to liquidate the debt, if sometime is given to him.

7. Considering the fact that the loan itself is a housing loan and the secured asset is a residential house, we feel that the petitioner should be given an opportunity to discharge the debt and redeem the secured asset. Hence, this writ petition is disposed of with the following directions:

(i) The respondent – Bank shall not take actual physical possession of the secured asset, if the petitioner pays a sum of Rs.26,03,784/- (Rupees twenty six lakhs three thousand seven hundred and eighty four only) to the respondent – Bank, on or before 07.07.2023.

(ii) The balance amount of Rs.60,00,000/- (Rupees sixty lakhs only) shall be paid by the petitioner in six equated monthly installments commencing from August, 2023. The monthly installments shall be paid on or before 07th of every succeeding month.

(iii) The interest payable for the interregnum period and other expenses shall be paid by the petitioner along with the last installment.

(iv) If there is any 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.

No costs. Consequently, connected miscellaneous petitions are closed.

[R.S.M., J.] **[L.V.G., J.]**

08.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

krk

To:
The Chief Judicial Magistrate,
Ramanathapuram.

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

krk

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