BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2023

CORAM:

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

W.P.(MD) No.14149 of 2023
and
W.M.P.(MD) No.11999 of 2023

C.Selvanayagam ... Petitioner

-vs-

The Authorized Officer
M/s.HDFC Ltd.,
(Housing Development Finance
Corporation Limited)
No.406, Sakthi Sivam Plaza
Pumping Station Road
9th Cross Street
KK Nagar (East)
Madurai-625 020 ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned order passed in Crl.M.P.No.365/2023, dated 28.04.2023, on the file of the Chief Judicial Magistrate, Sivagangai, and quash the same and consequently directing the respondent to redeliver the physical possession of the property which was already taken by the Advocate Commissioner mentioned in the impugned order dated 28.04.2023 situated in Sivagangai District, Karaikudi Registration District and Municipality, Karaikudi Joint II Registration District, Survey No.491/10 Part comprising site and superstructure, admeasuring 1433.43 sq.ft in Part-I and 2367.37 sq.ft. Totally 3800.80 sq.ft and consequently directing the respondent bank to accept the regular monthly instalment of Rs.18,510/- towards Housing Loan from July, 2023 onwards.

For Petitioner	:	Mr.S.Suresh
For Respondent	:	Mr.N.S.Karthikeyan

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. Action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, has been initiated upon the petitioner's loan accounts being classified as "Non Performing Assets" for non-payment of a few monthly installments.

3. Learned counsel for the petitioner would submit that the petitioner would be in a position to pay the defaulted amount and the respondent – Bank can consider regularization of the loan accounts.

4. Mr.N.S.Karthikeyan, learned counsel appearing for the respondent – Bank, upon instructions, submits that the petitioner will have to pay a sum of Rs.7,82,789/- (Rupees seven lakhs eighty two thousand seven hundred and eighty nine only) towards the overdue installments for both the loan accounts till 26.06.2023.

5. Learned counsel for the petitioner would claim that the petitioner has already paid a sum of Rs.2,00,000/- (Rupees two lakhs only) on 10.06.2023.

6. The respondent – Bank is required to verify as to whether the sum of Rs.2,00,000/- (Rupees two lakhs only) claimed to have been paid by the petitioner on 10.06.2023 has been given credit to and inform the petitioner by e-mail or Short Message Service (SMS) to enable him to pay the balance amount and regularize his loan accounts.

7. If the sum of Rs.2,00,000/- (Rupees two lakhs only) is to be deducted from Rs.7,82,789/- (Rupees seven lakhs eighty two thousand seven hundred and eighty nine only), the balance amount should be paid by the petitioner in two equal monthly installments. The first of such installment is to be paid by 26.07.2023 and the other one by 26.08.2023.

8. If the sum of Rs.2,00,000/- (Rupees two lakhs only) has already been given credit to, the petitioner is to pay the sum of Rs.7,82,789/- (Rupees seven lakhs eighty two thousand seven hundred and eighty nine only) in two equal monthly installments on the dates as specified above.

9. Apart from paying the above, the petitioner shall also pay the EMIs for the months of July and August, 2023 independent of the above payment.

10. Once the loan accounts are regularized, the petitioner can start to pay EMIs regularly from September, 2023.

11. Upon payment as stated above and regularization of the loan accounts, the respondent – Bank will put the petitioner in possession of the secured asset.

12. If there is any default in payment as directed above, the respondent – Bank can proceed further in accordance with law.

13. The writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

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

26.06.2023

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

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and
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