



W.P.(MD) No.14120 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.14120 of 2023
and
W.M.P.(MD) No.11974 of 2023**

Y.Justin Sundarraj

... Petitioner

-VS-

Bank of Baroda,
Kuzhithurai Branch,
Represented by its
Chief Manager Santhosh,
S/o.Jayachandran,
Regional Stressed Assets Recovery Branch,
(ROSARB) 1st Floor, 3, 4. 6
Sri Meenakshi Illam, Sakthi Vellammal Road,
Sakthi Vellammal Nagar, S.S.Colony,
Madurai – 625 010.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the Learned Chief Judicial Magistrate, Kanyakumari District at Nagercoil in Crl.M.P. No.4263 of 2023 dated 26.04.2023 and quash the same.



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For Petitioner : Mr.B.Christopher

For Respondent : Mr.P.Pethurajesh

ORDER

[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.P.Pethurajesh, learned Standing 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 26.04.2023, passed by the learned Chief Judicial Magistrate, Kanyakumari District at Nagercoil, under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.



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5. The learned counsel appearing for the bank would submit that the amount due as on date is Rs,18,75,653.19/- (Rupees Eighteen Lakhs Seventy Five Thousand Six Hundred and Fifty Three and Nineteen paise only).

6. The learned counsel appearing for the petitioner would contend that the very order of the learned Chief Judicial Magistrate is unsustainable. He would offer to settle the entire loan, if some time is granted.

7. In view of the said offer made and considering the fact that the amount due is around Rs,18,75,653.19/- (Rupees Eighteen Lakhs Seventy Five Thousand Six Hundred and Fifty Three and Nineteen paise only), we are of the opinion that the petitioner should be given an opportunity to save his property. In view of the same, the writ petition is disposed of with the following directions:

- (i) The Bank will not take possession or sell the property by auction, if the petitioner pays a sum of Rs.2,75,700/- (Rupees Two Lakhs Seventy Five Thousand only) to the respondent – Bank, on or before 27.06.2023.



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- (ii) The remaining amount of Rs.16,00,000/- (Rupees Sixteen Lakhs only) shall be paid by the petitioner in four equated monthly installments commencing from 27th July, 2023. The monthly installments shall be paid on or before 27th of every succeeding month.
- (iii) The interest that accrues in the interregnum and the cost of the sale shall be paid along with the last installment.
- (iv) If there is a 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 petition is closed.

[R.S.M., J.]

[L.V.G., J.]

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NCC : No
Index : No
Internet : Yes
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AND
L.VICTORIA GOWRI, J.

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