



W.P.(MD) No.14299 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2023

CORAM:

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

**W.P.(MD) No.14299 of 2023
and
W.M.P.(MD) Nos.12102 and 12103 of 2023**

Rajaputhiran Rajaiyan

... Petitioner

-VS-

The Authorized Officer,
M/s.Axis Bank Ltd.,
Nagercoil Branch,
No.42, Thayammal Harris Towers,
Court Road, Nagercoil,
Kanyakumari District-629 001.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating the impugned possession notice under Section 13(4) of SARFAESI Act dated 19.05.2023 and quash the same as illegal and consequently direct the respondent to break open



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the repossessed house property of the petitioner situated in R.S.No.83/7 of Neyoor Village, Vilavancode Taluk, Kanyakumari District and R.S.No.581/5A, Vilavancode Village, Vilavancode Taluk, Kanyakumari District .

For Petitioner : Mr.M.Sankar

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

3. The order dated 19.05.2023, passed by the learned Chief Judicial Magistrate, Nagercoil, appointing an Advocate Commissioner is the subject matter of challenge in the writ petition.



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4. The learned counsel appearing for the bank would submit that the bank has not taken any proceeding for sale of the property till date .

5. The learned counsel appearing for the petitioner would submit that he would be able to liquidate the entire debt of Rs.1,41,95,962/- (Rupees One Crore Forty One Lakhs Ninety Five Thousand Nine Hundred and Sixty Two only), if some time is granted.

6. Considering the said submission and the fact that the bank's interest will also stand served, if the petitioner pays the amount as assured by the counsel. The writ petition is disposed of with the following directions:

- (i) The petitioner shall pay the sum of Rs.1,41,95,962/- (Rupees One Crore Forty One Lakhs Ninety Five Thousand Nine Hundred and Sixty Two only) to the respondent – Bank, in six equated monthly installments commencing from 20th July, 2023. The monthly installments shall be paid on or before 20th of



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every succeeding month.

- (ii) The interest that accrues in the interregnum and the cost of the sale shall be paid along with the last installment.
- (iii) Upon such payment, the bank will restore the possession to the petitioner.
- (iv) If there is a default in payment as directed above, the respondent – Bank can proceed further in accordance with law.

No costs. Consequently, connected miscellaneous petitions are closed.

[R.S.M., J.]

[L.V.G., J.]

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NCC : No
Index : No
Internet : Yes
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