



W.P.(MD) No.14147 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2023

CORAM:

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

**W.P.(MD) No.14147 of 2023
and
W.M.P.(MD) Nos.11994 & 11995 of 2023**

S.Rajkumar

... Petitioner

-vs-

Canara Bank
(Through its Authorized Officer V.Subramanian)
Palayamkottai Branch
16, Tiruchendur Main Road
Murugankurichi H.O.
Palayamkottai
Tirunelveli District

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records pertaining to the impugned order passed by the learned Chief Judicial Magistrate, Tirunelveli, in Cr.M.P.No. 5235 of 2023, dated 28.03.2023 and quash the same.



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For Petitioner : Mr.K.Rajeshwaran

For Respondent : Mr.T.Thevan

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.T.Thevan, 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. The borrower challenges the order of the learned Chief Judicial Magistrate, Tirunelveli, passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, permitting the respondent – Bank to take possession of the secured assets of the guarantor.



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5. Learned counsel appearing for the respondent - Bank would submit that the amount due as of today is around Rs.1,55,82,798/- (Rupees one crore fifty five lakhs eighty two thousand seven hundred and ninety eight only).

6. Considering the *bona fides* of the borrower in attempting to safeguard the properties of the guarantor, who is his own brother, we feel that an opportunity should be given to him to discharge his pious obligation. Hence, this writ petition is disposed of with the following directions:

- (i) The respondent – Bank will not take actual physical possession of the secured assets, if the petitioner pays a sum of Rs.35,82,798/- (Rupees thirty five lakhs eighty two thousand seven hundred and ninety eight only) to the respondent – Bank, on or before 15.07.2023.
- (ii) The balance amount of Rs.1,20,00,000/- (Rupees one crore and twenty lakhs only) shall be paid by the petitioner in ten equated monthly installments commencing from August, 2023. The monthly



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installments shall be paid on or before 15th 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 assets 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.]

15.06.2023

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

krk

To:
The Chief Judicial Magistrate,
Tirunelveli.



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