



W.P.(MD) No.15007 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2023

CORAM:

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN**

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and

W.M.P.(MD) Nos.12632 and 12633 of 2023

K.Ramamoorthy

... Petitioner

-VS-

1. The Branch Manager,
Bank of Baroda, Virudhunagar Branch,
Virudhunagar.
2. The Authorized Officer,
Bank of Baroda,
ROSARB, 1st Floor,
Plot No.14, Door No.3,4,5,
Sakthi Velamal
10th Street, S.S.Colony, Madurai-625016.

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 under section 14 of SARFAESI Act by the Learned Chief Judicial



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Magistrate, Madurai, in Cr.M.P.No.243 of 2023 dated 11.04.2023 and subsequent advocate commissioner notice dated 19.06.2023 and quash the same.

For Petitioner : Mr.P.Venkatesan

For Respondents : Mr.P.Pethu Rajesh

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

We have heard Mr.P.Venkatesan, learned counsel for the petitioner and Mr.P.Pethu Rajesh, learned Standing Counsel for the respondents.

2. The petitioner is challenging an order passed under Section 14 of the the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (SARFAESI Act). Earlier, the petitioner challenged the sale notice. The Debts Recovery Tribunal had granted stay on condition that the present petitioner deposits the amount of Rs. 7,00,000/- (Rupees Seven Lakhs only) in two installments. The first installment of Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand only) has to be paid on or before 09.05.2023 and another sum of Rs.3,50,000/- (Rupees



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Three Lakhs Fifty Thousand only) shall be paid on or before 06.06.2023. The Debts Recovery Tribunal further ordered that if the petitioner fails to deposit any part of the sum as ordered by the Tribunal, respondent bank will be at liberty to proceed further under the SARFAESI Act without any reference to the Tribunal. It is not disputed that the petitioner has deposited Rs.3,50,000/- (first installment) within the time, however, did not deposit the further installment of Rs.3,50,000/- by 06.06.2023 and it was deposited with the bank on 14.06.2023 only. The stay automatically stood vacated.

3. It is submitted by the learned counsel for the respondent bank that as the amount was not deposited as per the installments granted by the Tribunal, the bank has proceeded further and the auction purchaser deposited the entire sale amount with the bank.

4. The auction purchaser is not before us. The matter is pending with the Debts Recovery Tribunal. The order of the Tribunal is violated. The petitioner is at liberty to raise the plea before the Debts Recovery Tribunal in the pending proceedings.



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5. Now, the petitioner is challenging the notice under Section 14 of the SARFAESI Act. The petitioner is also entitled to agitate the same before the Debts Recovery Tribunal. Learned counsel for the petitioner seeks stay of the execution of the order passed under Section 14 of the SARFAESI Act. We cannot grant a blanket stay. However, so as to give an opportunity to the petitioner to agitate before the Debts Recovery Tribunal, for a period of seven days from today, the bank may not take further precipitative steps pursuant to the order passed under Section 14 of the SARFAESI Act. However, the petitioner also needs to show his *bona fides* by depositing the further amount immediately as may be directed by the Debts Recovery Tribunal.

6. The writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

[S.V.G., .C.J.]

[R.S.M., J.]

23.06.2023

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

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THE HONOURABLE CHIEF JUSTICE
and
R.SUBRAMANIAN, J.

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