



W.P(MD)No.21795 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.21795 of 2022
and
W.M.P(MD)Nos.15956 & 15959 of 2022**

Shanthi

... Petitioner

VS.

The Authorized Officer,
Canara Bank (HITECH – AF Branch),
Nagampabom Branch,
Kottayam,
Kerala – 686 001.

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned order in Cr.M.P.No.717 of 2022 dated 21.04.2022 passed by the Chief Judicial Magistrate, Theni under Section 14 of the SARFAESI Act and quash the same.

For Petitioner : Mr.M.Maharaja

For Respondent : Mr.R.Pandivel
Standing Counsel



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ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The petitioner has filed the present Writ Petition seeking for issuance of a Writ of Certiorari, to quash the impugned order in Cr.M.P.No.717 of 2022 dated 21.04.2022 passed by the Chief Judicial Magistrate, Theni under Section 14 of the SARFAESI Act.

2. When the matter came up for hearing on 10.10.2022, this Court referred the matter before the Mediation and Conciliation Centre attached to this Bench.

3. When the matter was taken up for hearing today, the petitioner and the respondent viz., Mr.V.Rajesh Kumar, Chief Manager/Authorized Officer are present before this Court.

4. The learned counsel appearing on either side submitted that there was a settlement between the parties and they have entered into a settlement agreement on 01.02.2023, which are reduced to writing, the terms of which are as follows:-



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"6.The following settlement has been arrived at between the parties hereto

A. As per the sanction for one time settlement offered by the respondent Bank the entire amount of Rs.1,35,00,000/- (One Crore Thirty Five Lakhs) is paid by the petitioner as on 22.11.2022.

B. Accordingly the Bank has issued a communication dated 21.01.2023 to the petitioner stating that "loans stands settled under one time settlement". Hence the loan account stands closed.

C. The respondent Bank agreed to withdraw the suit filed in O.A.No.34 of 2022 on the file before the DRT II, Ernakulam. The petitioner and other defendants in the original application shall sign the joint compromise memo to be filed by the Bank.

D. Since the matter is settled under one time settlement and amount is fully recovered from the petitioner, the respondent Bank agrees to return the original documents of title deeds deposited with the Bank for creating an Equitable Mortgage.

E. The respondent Bank agrees to withdraw the petition in Crl.M.P.No.717 of 2022 pending before the Chief Judicial Magistrate, Theni, filed under Section 14 of the SARFAESI Act.



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F. The respondent Bank assures that there shall not be any more claim under Loan A/c.No.2388792000003, with Canara Bank, Nagambadom Branch, Kottayam.

G. A copy of final settlement letter dated 21.01.2023 is produced herewith.

7.By signing this agreement, the parties hereto state that they have no further claims or demands against each other with respect to W.P(MD)No.21795 of 2022 and all disputes and differences in this regard have been amicably settled by the parties hereto through the process of Mediation.”

5.The settlement agreement, dated 01.02.2023, filed by the parties, counter-signed by their counsel, is taken on record.

6.Recording the same, the impugned order passed by the Chief Judicial Magistrate, Theni in Cr.M.P.No.717 of 2022 dated 21.04.2022, is set aside.



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7. In view of the same, this Writ Petition is allowed in terms of the settlement agreement, dated 01.02.2023, which shall form part and parcel of the order. No costs. Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] [R.V.,J.]
07.02.2023

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

To

The Authorized Officer,
Canara Bank (HITECH – AF Branch),
Nagampabom Branch,
Kottayam,
Kerala – 686 001.



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D.KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
W.P(MD)No.21795 of 2022

DATED : 07.02.2023