



W.P.(MD)No.20145 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2023

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P(MD)No.20145 of 2023

and

W.M.P(MD)Nos.16611 and 16614 of 2023

G.Kasthuri

... Petitioner

Vs.

1.Authorized Officer,
State Bank of India,
Aruppukottai Branch,
Virudhunagar District.

2.The Inspector of Police,
Aruppukottai Town Police Station,
Virudhunagar District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order in Cr.M.P.No.4818 of 2023 dated 23.06.2023 on the file of the Chief Judicial Magistrate, Srivillipuhthur, Virudhunagar District and quash the same as illegal.

For Petitioner :Mr.R.Balamuruganantham

For R-1 :Mr.Thevan,
Standing Counsel



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ORDER

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(Order of the Court was made by **S.S.SUNDAR, J.**)

Mr.Thevan, learned Standing Counsel takes notice for the first respondent – Bank.

2. The petitioner, who is a borrower has filed the above writ petition challenging the order passed in Cr.M.P.No.4818 of 2023, dated 23.06.2023 by the learned Chief Judicial Magistrate, Srivilliputhur, Virudhunagar District, in the application filed by the bank under Section 14 of the SARFAESI Act, 2002.

3. Though it is stated that pursuant to the order, dated 18.05.2023, passed by this Court in an earlier writ petition filed by the petitioner challenging the sale notice in W.P(MD)No.11736 of 2023, the petitioner has paid a sum of Rs.2,00,000/-, this Court on a reading of the order dated 18.05.2023, finds that the petitioner has not complied with the directions of this Court.

4. The fact that the petitioner has paid the substantial amount ie., nearly 25% of the total outstanding is not in issue. However, the petitioner has an effective alternative remedy of approaching the Debts Recovery Tribunal. Therefore, it is open to the petitioner to approach the Debts



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Recovery Tribunal as against the order passed by the Chief Judicial Magistrate and to get appropriate remedy.

5. It is also open to the petitioner to approach the respondent bank in the meanwhile with a representation either to regularize the loan or to settle the entire dues by way of One Time Settlement agreeable for the respondent bank in terms of the guidelines issued by the Reserve Bank of India.

6. With the liberty preserved to the petitioner, this writ petition is disposed of. The respondent bank shall consider the representation of the petitioner if any made within a period of two weeks from the date of receipt of a copy of this order and pass appropriate orders taking note of the value of the secured asset and other factors. Till such time the representation of the petitioner is considered and the decision thereof is communicated to the petitioner, the order of the learned Chief Judicial Magistrate shall be kept in abeyance. No Costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [D.B.C., J.]
18.08.2023

Index : Yes / No
NCC : Yes/No

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To:

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- 1.The Chief Judicial Magistrate,
Srivillipuhthur,
Virudhunagar District
- 2.The Inspector of Police,
Aruppukottai Town Police Station,
Virudhunagar District.



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S.S.SUNDAR, J.

and

D.BHARATHA CHAKRAVARTHY, J.

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