



W.P(MD)No.20898 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2023

CORAM :

**THE HONOURABLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE P.VADAMALAI**

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Rajaputhiran Rajaiyan

... Petitioner

Vs.

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

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the Respondent to break open the repossessed house property of the petitioner situated in R.S.No.581/5A, Vilavancode Village, Vilavancode Taluk, Kanyakumari District and Cashew Factory situated in R.S.No.83/7 of Neyoor Village,



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Vilavancode Taluk, Kanyakumari District, on the basis of the petitioner's representation, dated 02.08.2023

For Petitioner : Mr.M.Sankar

For Respondent : Mr.Pethu Rajesh

ORDER

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

Heard Mr.M.Sankar, learned counsel for the petitioner and Mr.Pethu Rajesh, learned counsel for the respondent.

2. The petitioner seeks direction against the respondent to break open and desal the house and restore the possession of the petitioner.

3. The learned counsel for the petitioner submits that as per the earlier order passed by this Court on 19.06.2023 in W.P.(MD)No.14299 of 2023, the petitioner paid the first installment of Rs.25,00,000/- (Rupees Twenty Three Lakhs only) and then again paid Rs.9,00,000/- (Rupees Nine Lakhs only). The workers' livelihood depends upon the factory. The respondent will be directed to open the lock and seal.



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4. The order, dated 19.06.2023 in W.P.(MD)No.14299 of 2023 filed by the petitioner is a conditional order. The operative part of the order reads thus:

"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 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."



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5. The petitioner was directed to pay Rs.1,41,95,962/- (Rupees One Crore Forty One Lakhs Ninety Five Thousand Nine Hundred and Sixty Two only) in six equated monthly installments commencing from 20th July 2023 and thereafter, each installments on or before 20th of every succeeding month as per the said conditional order.

6. The order further states that the interest that accrues in the interregnum and the cost of the sale shall be paid along with the last installments. The said order further states that upon such payment, the Bank will restore the possession to the petitioner.

7. The aforesaid order is a conditional order. The petitioner has not deposited the second installment as directed by this Court in its earlier order.

8. In the light of that, the request of the petitioner cannot be considered.



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9. The Writ Petition as such stands dismissed. No costs.

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

[P.V.M., J.]

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Index : Yes / No

Neutral Citation : Yes / No

RM



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and
P.VADAMALAI, J.

RM

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