



W.P.(MD) No.20201 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.(MD) No.20201 of 2023
and
W.M.P.(MD) Nos.16673 & 16674 of 2023**

Mary Stella Bai

... Petitioner

-VS-

- 1.The Debts Recovery Tribunal
IV Floor, Kalyani Tower
Melur Road, Madurai
- 2.The Authorized Officer
LIC Housing Finance Ltd.,
Nagercovil Branch
132, 1st Floor, Near Jumma Mosque
M.S.Road, Vadasery
Nagercoil
Kanyakumari District

... Respondents

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 dated 30.05.2023 in Criminal Miscellaneous Petition No.5410 of 2023, passed



W.P.(MD) No.20201 of 2023

by the Chief Judicial Magistrate, Nagercovil, on the petition filed by the second respondent Bank under Section 14 of the SARFAESI Act, 2002 for the subject property and quash the same.

For Petitioner : Mr.T.Thevan

For Respondents : R1 – Tribunal
Mr.Veera Pandian
for M/s.Vast Law Associates for R2

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

Mr.Veera Pandian, learned counsel representing M/s.Vast Law Associates, takes notice for the second respondent – Bank.

2. With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.

3. This writ petition is filed challenging the order dated 30.05.2023, passed in CrI.M.P.No.5410 of 2023, by the learned Chief Judicial Magistrate, Nagercoil, under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.



W.P.(MD) No.20201 of 2023

WEB COPY

4. Though the petitioner has an effective alternative remedy of approaching the Debts Recovery Tribunal, since the Presiding Officer of the Tribunal is on leave and that the respondent – Bank had already taken possession of the secured asset, the petitioner is before this Court.

5. Learned counsel for the petitioner would submit that the petitioner is prepared to pay 30% of the amount due to the respondent – Bank, if they are willing to hand over the possession of the secured asset to the petitioner. The amount due as on date is around Rs.76 lakhs.

6. Learned counsel appearing for the respondent – Bank would submit that the respondent – Bank has no serious objection to hand over the possession of the secured asset, if the petitioner pays a substantial amount to reduce the liability.

7. In such circumstances, this writ petition is disposed of in the following lines:

- (i) On condition that the petitioner pays a sum of Rs.23 lakhs out of the amount due within a period of eight weeks from today, the respondent – Bank is directed



W.P.(MD) No.20201 of 2023

to hand over the possession of the secured asset to the petitioner.

- (ii) In case the petitioner fails to pay the amount as directed above, it is open to the respondent – Bank to proceed further in accordance with law.
- (iii) It is open to the petitioner to submit a representation to the respondent – Bank for one time settlement or for any other concession, in the meanwhile.
- (iv) If any representation is submitted, the same may also be considered by the respondent – Bank in accordance with law, within a reasonable time.
- (v) No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.]

[D.B.C., J.]

21.08.2023

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

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W.P.(MD) No.20201 of 2023

WEB COPY

To:
The Chief Judicial Magistrate,
Nagercoil.



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W.P.(MD) No.20201 of 2023

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W.P.(MD) No.20201 of 2023
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W.M.P.(MD) Nos.16673 & 16674 of
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21.08.2023