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W.P.(MD) No.23995 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2023

CORAM:

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

W.P.(MD) No.23995 of 2023

Srinivasan Health & Educational Trust,
Represented by its Trustee,
S.Kathiravan

... Petitioner

-vs-

The Chief Manager,
Indian Bank,
Stressed Assets Management Branch,
East Avani Moola Street,
Madurai 625 001

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to grant the petitioner Trust one month period to make balance payment of One Time Settlement amount of Rs.24.69 Crores on condition of payment of banking rate of interest for such delayed period by considering the representation of the petitioner Trust dated 27.09.2023 and consequently forbearing the respondents from initiating coercive steps for recovery against the petitioner Trust during such period.



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For Petitioner : Mr.M.Ajmal Khan,
Senior Counsel
for M/s.Ajmal Associates

For Respondent : Mr.Devan
for M/s.Iyyar & Dolia

ORDER

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

This Writ Petition has been filed for issuance of Writ of Mandamus directing the respondent to grant the petitioner Trust one month period to make balance payment of One Time Settlement amount of Rs.24.69 Crores. The petitioner Trust has agreed to pay the interest for the delayed period.

2. In tune with the prayer sought before this Court, the petitioner has filed a representation on 27.09.2023. Further request of the petitioner is that the respondent may not initiate coercive steps for recovery or withdraw One Time Settlement proposal in the meanwhile.

3. The learned counsel appearing for the respondent bank has an objection by referring to an order passed by this Court in the earlier Writ



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Petition filed by an individual, who is now representing the Trust before this Court.

4. Earlier, one of the Trustees by name, Kathiravan and two other Trustees have filed Writ Petitions for issuance of Writ of Mandamus forbearing the Foreign Regional Registration Officer in anyway preventing them from travelling abroad at the instance of the complaint lodged by the respondent bank.

5. This Court, after taking note of the facts admitted by them, directed one Kathiravan, who is representing the Trust before this Court and two other persons, who are other Trustees to make payment of Rs.20,00,000, (Rupees Twenty Crores only) to the Indian Bank on or before 31.07.2023. The prayer of the petitioners was granted by directing the second respondent therein to revoke the Look Out Circular issued against the petitioners within the period of one week thereafter.

6. In the previous Writ Petition, the Trustees have challenged the Look Out Circular and the same has nothing to do with the present prayer



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and the context in which the petitioner Trust has approached this Court in the present Writ Petition.

7. The learned Senior Counsel appearing for the petitioner Trust has now produced two Demand Drafts for total value of Rs.4,81,00,000/- (Rupees Four Crores and Eighty One Lakh Only) towards One Time Settlement proposal

8. The learned counsel appearing for the respondent bank has admitted that the petitioner Trust has so far paid Rs.17 Crores and in addition to that the petitioner Trust has now produced two Demand Drafts for a sum of Rs.4,81,00,000/- (Rupees Four Crores And Eighty One Lakh Only), totally Rs.22 Crores.

9. In such circumstances, this Court find that the petitioner has now remitted more than 50% of the total amount to be paid. Therefore, some indulgence has to be shown towards the petitioner Trust.



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10. The Demand Drafts for the value of Rs.4,81,00,000/- (Rupees Four Crores and Eighty One Lakh Only) are acknowledged by the respondent bank. The learned Senior Counsel appearing for the petitioner Trust submits that with the two Demand Drafts, receipt of which is acknowledged by the learned counsel appearing for the respondent bank, the petitioner has remitted more than 50% of the amount due as per the OTS and that some indulgence may be shown to the petitioner by extending the time for balance payment.

11. Considering the over all facts and circumstances of the case and keeping in mind the interest of the bank as well as the petitioner Trust, which runs a Medical College, the reasons that have been stated in the affidavit filed in support of the petition for the delay in payment are justified.

12. In fine, this Writ Petition is disposed of with the following directions:

- i)** Time prescribed in the One Time Settlement, is extended upto 31.10.2023;



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ii) The petitioner Trust is liable to pay interest for the delayed payment at the rate of 12% per annum or the interest payable on the loan account whichever is higher;

iii) In case, the petitioner fails to comply the aforesaid directions as undertaken by the petitioner Trust before this Court, it is open to the respondent bank to withdraw the One Time Settlement offer and to proceed in accordance with law.

There is no order as to costs.

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

[D.B.C., J.]

29.09.2023

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

To:
The Chief Manager,
Indian Bank,
Stressed Assets Management Branch,
East Avani Moola Street,
Madurai 625 001



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and
D.BHARATHA CHAKRAVARTHY, J.

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