



W.P(MD)No.26605 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2023

CORAM:

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

W.P(MD)No.26605 of 2022

and

W.M.P(MD)Nos.20807 and 20809 of 2022

Mrs.M.Mumtaj Begum

... Petitioner

-VS-

Sundaram Home Finance Limited,
No.C-56, PLA's Towers, 2nd Floor,
4th Cross, Thillai Nagar Main Road,
Trichy-620 018,
Rep. by its Branch Manager,
Mr.Sivabalan.

... Respondent

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 passed by the Learned Chief Judicial Magistrate, Trichy, dated 12.08.2022 made in Cr.M.P.No.2860 of 2019 and the consequential letter dated 15.11.2022 issued by the Advocate Commissioner fixing the date for taking Physical Possession on 26.11.2022 and quash the same.

For Petitioner : Mr.M.Arunachalam

For Respondent : Mr.M.E.Ilango
Standing Counsel



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ORDER

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

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The petitioner has filed this Writ Petition challenging the impugned order passed by the Learned Chief Judicial Magistrate, Trichy, dated 12.08.2022, made in Cr.M.P.No.2860 of 2019 and the consequential letter dated 15.11.2022, issued by the Advocate Commissioner fixing the date for taking Physical Possession on 26.11.2022.

2. Heard Mr.M.Arunachalam, learned counsel for the petitioner and Mr.M.E.Ilango, learned Standing Counsel for the respondent.

3. Though the Writ Petition is pending for a period of one year and this Court has not imposed any condition to grant interim stay, this Court is unable to find any bonafide on the part of the petitioner to make any payment, despite enjoying the benefit of stay.

4. The learned Standing Counsel for the respondent finance company would submit that the petitioner has availed a loan of Rs.35,99,000/- and the loan account was declared as NPA even in the year 2013 and the liability is more than Rs.98 Lakhs.



5. The petitioner has not come forward with any proposal for settling the entire amount, except Demand Drafts for Rs.6,00,000/- and Rs.6,50,000/-. This Court is unable to entertain this Writ Petition, especially when the petitioner has an efficacious alternative remedy of approaching the Debts Recovery Tribunal. Since the petitioner has now produced Demand Drafts for Rs.14,50,000/-, it is open to her to use this amount for entering into an OTS Scheme or concession as may be permissible in terms of R.B.I. Guidelines.

6. With liberty preserved to the petitioner to either to challenge the order of the learned Chief Judicial Magistrate before the Debts Recovery Tribunal or to move the respondent with any proposal for OTS Scheme or concession as may be permissible in terms of R.B.I. Guidelines, this Writ Petition is dismissed. The petitioner is at liberty to approach the respondent finance company and submit a representation within a period of one week from today either for waiver of penal interest or for One Time Settlement or for restructuring the loan or for any other concession, as may be permissible under the guidelines of Reserve Bank of India or the norms applicable to the respondent. The respondent shall consider the same and pass appropriate orders in accordance with law. Till such time, the respondent considers the representation of the petitioner on merits and communicate the decision taken to



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the petitioner, the respondent shall not initiate any coercive action against the petitioner. The period taken by the petitioner to pursue this Writ Petition shall stand excluded for the purpose of limitation in law, petitioner prefers to challenge the impugned order before DRT. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

[S.S.S.R, J.] [D.B.C., J.]
02.08.2023

Index : Yes / No
Neutral Citation : Yes / No
sj



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S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

sj

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