



W.P.(MD)No.25961 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.(MD)No.25961 of 2023

and

W.M.P.(MD)Nos.22320, 22322 and 22324 of 2023

1.T.Varghese

2.V.Shanthini Gilda

... Petitioners

Vs.

The Authorized Officer / Branch Manager,
Canara Bank, Marthandam Branch,
1st Floor, Paney Plaza,
Market Road, Marthandam & Post,
Nalloor Village, Vilavancode Taluk,
Kanniyakumari District.

...Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order in Ref. 1108/651/35164 of the Auction Sale Notice dated 04.10.2023 issued by the respondent Bank and to quash the same.

For Petitioners : Mr.G.Aravinthan

For Respondent : Mr.C.Deepak



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ORDER

Heard the learned counsel on either side.

2.With the consent of both parties, this Writ Petition is taken up for final disposal today itself.

3.The petitioners availed education loan and committed default. SARFAESI proceedings were initiated by the respondent Bank. The petitioners filed SARFAESI Appeal (S.A.No.206 of 2023) before the Debts Recovery Tribunal, Madurai and interim order was granted on condition. The petitioners could not comply with the condition and that led to the issuance of the impugned sale notice. The petitioners filed another SARFAESI Appeal before the Debts Recovery Tribunal, Madurai and also parallely moved this Writ Petition.

4.Though we are satisfied that this Writ Petition is not maintainable, considering the special facts and circumstances of the case, we are inclined to pass the following directions:-



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(a) The petitioners shall pay a sum of Rs.1,00,000/- (Rupees One Lakh Only) by today (26.10.2023) evening directly to the respondent; and

(b) The balance amount as quantified by the respondent shall be paid by the writ petitioners in four equal monthly installments. The 1st installment will commence on 01.12.2023.

5.We make it clear that we have not quantified the exact liability. It is left open to the respondent. If the petitioners fail to adhere to the directions stipulated above, the benefit of this order will stand cancelled automatically without reference to this Court.

6.This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S., J.) & (P.D.B., J.)

26.10.2023

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

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G.R.SWAMINATHAN, J.

AND

P.DHANABAL, J.

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