



W.P.(MD)No.25978 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.25978 of 2023

and

W.M.P.(MD)Nos.22345 to 22347 of 2023

M/s.Gurudev Educational and Charitable Trust,
Rep. by its Authorized Signatory, the Managing Trustee,
R.Gnanasekaran, S/o.Rasu Thevay and also
M/s.Gurudev Matriculation School,
Rep. by its Authorized Signatory,
No.106/3, Sembar, Near Madurai Main Road,
Boothipuram, Madurai-625 532.

... Petitioner

Vs.

- 1.The District Collector,
Madurai District.
- 2.The Superintendent of Police,
Usilampatti Division, Madurai District.
- 3.The Chief Educational Officer,
Madurai District, Madurai.
- 4.The District Educational Officer,
Usilampatti Division, Madurai District.



W.P.(MD)No.25978 of 2023

5.Auxilo Finserve Private Limited,
Rep. by its Regional Authorized Officer,
J.Gomes, Branch Office at
Orchid Center First Floor,
71, Kannappan Street, Nelson Manickam Road,
Aminjikarai, Chennai-29.

6.G.Vijeyalakshmi

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the orders passed by the Presiding Officer Debt Recovery Tribunal in S.A.No.292 of 2023, dated 13.10.2023 quash the same as illegal, arbitrary and gross violation of principles of natural justice and consequently, to direct the 5th respondent to reschedule loan amount and not to proceed further under SARFAESI Act.

For Petitioner : Mr.W.Pamelin

For R1, R3 & R4 : Mr.S.Shaji Bino,

Special Government Pleader

For R2 : Mr.E.Antony Sahaya Prabahar,

Additional Public Prosecutor

ORDER

Heard the learned counsel on either side.

2.Considering the nature of relief to be granted, issuance of notice to the respondents 5 and 6 is dispensed with.



W.P.(MD)No.25978 of 2023

WEB COPY

3.The petitioner had availed loan from the 5th respondent and committed default. The financial institution being a secured creditor had initiated proceedings under SARFAESI Act. The petitioner filed S.A.No.292 of 2023 before the Debts Recovery Tribunal, Madurai and applied for interim relief. The interim relief was granted subject to condition. It is stated that the petitioner could not comply with the condition. That led to the dismissal of the interim applications filed by the petitioner. The orders dismissing the interim applications are appealable before the Debts Recovery Appellate Tribunal. The petitioner should not have come before this Court directly.

4.The learned counsel for the petitioner states that the petitioner is running a School and if it is taken over, the students' interest will be seriously jeopardized. It is further stated that on account of intervening Dussehra holidays, the petitioner is unable to approach the Debts Recovery Appellate Tribunal.

5.Taking note of the special facts and circumstances of the case, this Writ Petition is disposed of in the following terms:-



W.P.(MD)No.25978 of 2023

(a)The petitioner undertakes to pay a sum of Rs.10.00 lakhs directly to the 5th respondent and also undertakes to file an appeal before Debts Recovery Appellate Tribunal within the limitation period;

(b)The petitioner's right will abide by the outcome of the order to be passed by the Appellate Tribunal. The petitioner shall not be dispossessed for a period of three weeks; and

(c)If the petitioner fails to adhere to the above undertaking, the benefit of this order will stand vacated automatically without reference to this Court.

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

Yuva

Note: Issue Order copy on 27.10.2023.



WEB COPY



W.P.(MD)No.25978 of 2023

To

- 1.The District Collector,
Madurai District.
- 2.The Superintendent of Police,
Usilampatti Division, Madurai District.
- 3.The Chief Educational Officer,
Madurai District, Madurai.
- 4.The District Educational Officer,
Usilampatti Division, Madurai District.



WEB COPY



W.P.(MD)No.25978 of 2023

G.R.SWAMINATHAN, J.

AND

P.DHANABAL, J.

Yuva

W.P.(MD)No.25978 of 2023

26.10.2023