



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Tuesday, the Fourteenth day of February Two Thousand and Twenty
Three

PRESENT

The Hon`ble Mr.Justice D.KRISHNAKUMAR

AND

The Hon`ble Mrs.Justice L. VICTORIA GOWRI

WMP(MD) . No.22332 of 2022

in

WP(MD) .no.20114 of 2022

William M
Russel Raj

... Petitioners/Petitioners

Vs

1 The Authorized Officer
Bank of Baroda
Padmanabha Commercial Complex
Opp. New Bus Stand Market Road
Marthandam Kanyakumari District.

2 The Authorized Officer
Bank of Baroda
Padmanabha Commercial Complex
Opp. New Bus Stand
Market Road
Marthandam
Kanyakumari District.

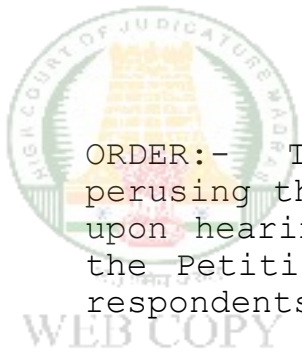
... Respondents/Respondents

Prayer :-

This Petition is filed under Article 226 of Constitution of India to extend the time granted by this Honble Court in WP (MD) No.20114 of 2022 dated 29.08.2022 for the payment of 1st installment due of Rs.2 Lakhs

Prayer in WP(MD). 20114/ 2022 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorari to call for the records pertaining to the Crl.MP.No.1175/2022 dated 01.08.2022 pending on the file of Chief Judicial Magistrate, Nagarcoil and to quash the same as illegal.



ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru. A.Balakrishnan, Advocate for the Petitioners and of Thiru.Palaramasamy, Standing counsel for the respondents, this Court made the following order:

This petition has been filed to extend the time granted by this Court in W.P(MD)No.20114 of 2022 dated 29.08.2022 for the payment of 1st instalment due of Rs.2 Lakhs.

2. This Court by order dated 29.08.2022 in W.P(MD)No.20114 of 2022, has passed the following order:-

''5.Though it is admitted that the petitioners have failed to make payment within the time given by the respondent bank, the fact that the petitioners had paid a sum of Rs.9,50,000/~, when the matter was pending before the Debt Recovery Tribunal in the SARFAESI Application, challenging the previous notice and the liability also as on date is reduced considerably, cannot be disputed. Considering the grievance of the petitioners, this Court is inclined to dispose of the Writ Petition in the following lines:

(1)The respondent bank shall defer the sale proceedings pursuant to the order impugned in the present Writ Petition, provided the petitioners shall pay a sum of Rs.8,00,000/~ in four monthly equal instalments commencing from 29.09.2022.

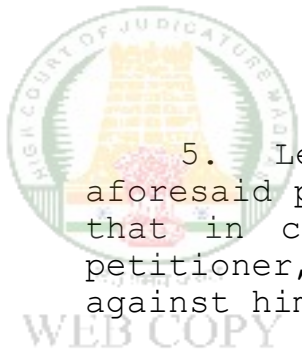
(2)In case the petitioners fail to pay any one of the instalments, in the manner directed above, it is open to the respondent bank to proceed further in accordance with law, ignoring this order.

(3)In the event of depositing the amount as directed above, the petitioners are permitted to submit a representation to the respondent bank either for waiver of penal interest or One Time Settlement or for restructuring the loan and other concession, as may be permissible under the guidelines of Reserve Bank of India or the norms applicable to the respondent bank and the respondent bank shall pass appropriate orders in accordance with law.

(4)Till an order is passed on the representation of the petitioners and the same is communicated to the petitioners, the respondent bank shall not initiate any coercive action against the petitioners.''

3. Learned counsel for the respondent Bank has produced the letter of the respondent Bank in Ref No.BOB/VJMART/Gen/2022-23 dated 10.02.2023, and submitted that pursuant to the aforesaid order of this Court, the petitioner submitted one time settlement proposal and the respondent Bank considered the same and informed the petitioner that the three loan accounts availed by him will be closed if the total outstanding due of Rs.26,96,721.98/- is paid.

4. Learned counsel for the petitioner submitted that the petitioner may be permitted to pay the aforesaid total outstanding due of Rs.26,96,721.98/- in five equated monthly instalments.



5. Learned counsel for the respondent Bank has agreed to the aforesaid payment schedule by the petitioner. However, he submitted that in case of failure of any one of the instalments by the petitioner, liberty may be given to the respondent Bank to proceed against him in accordance with law.

6. Recording the aforesaid submissions, the petitioner is directed to pay the total outstanding due of Rs.26,96,721.98/- in five consecutive equal monthly instalments, of which, the first instalment shall be paid on or before the 15th day of March 2023 and the subsequent instalments shall be paid on or before the 15th day of succeeding English Calendar months. Till such time, the respondent Bank shall not take any coercive action against the petitioner. If the petitioner commits default in payment of any one of the instalments, it is open to the respondent Bank to proceed further in accordance with law.

7. With the above direction, this petition is disposed of.

Sd/-

Assistant Registrar (Admin I)

// True Copy //

23/03/2023

Sub Assistant Registrar (CS)

TO
The Authorized Officer
Bank of Baroda
Padmanabha Commercial Complex
Opp. New Bus Stand Market Road
Marthandam Kanyakumari District.
+1 CC to Mr.K.P.NARAYANAKUMAR, Advocate (SR-8162[F])
COPY TO:
The Chief Judicial Magistrate, Nagarcoil

ORDER DATED : 14/02/2023

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ORDER

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WMP(MD). No.22332 of 2022
in
WP(MD).no.20114 of 2022
Giving direction and etc.
as stated within.

MK (23.03.2023) 3P 4C

<https://www.mhc.tn.gov.in/judis>