



WP.No.16015/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE N.SENTHILKUMAR

WP.No.16105/2024 & WMP.No.17629/2024

Sivakumar

... Petitioner

Vs.

M/s.Canara Bank
rep.by Authorised Officer
Specialized Agricultural Branch
May Flower Complex, evidence Floor 121,
11th Street, Tatabad, Coimbatore.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of mandamus to forbear the respondent from taking any coercive steps to dispossess the petitioner from the mortgaged properties/secured assets of the petitioner till the pending disposal of the appeal preferred before the Debts Recovery Appellate Tribunal, Chennai in AIR No.899/2024.



WP.No.16015/2024

For Petitioner : Mr.I.M.Siddhartha Ramarajan
For Respondents : Mr.K.V.Subramanian
Standing Counsel

ORDER

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

- (1) Mr.K.V.Subramanian, learned Standing counsel accepts notice on behalf of the respondent/Bank.
- (2) The petitioner has challenged the notice under Section 13[4] of the SARFAESI Act dated 09.01.2024 before the Debts Recovery Tribunal. The Tribunal granted interim order on condition that the petitioner should deposit a sum of Rs.1 Crore on or before 19.06.2024 and a further sum of Rs.1 Crore in July 2024. Aggrieved by the order, the petitioner has filed an appeal before the Debts Recovery Appellate Tribunal and the same is pending.
- (3) In the meanwhile, the petitioner has also approached this Court for a writ of mandamus, forbearing the respondent from taking any coercive steps to dispossess the petitioner from the mortgaged property. This Court finds that the petitioner is incapable of depositing such a huge amount, which was suggested by the Tribunal by way of an interim order.



WP.No.16015/2024

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- (4) The learned counsel for the petitioner has reported before this Court that the petitioner can pay a sum of Rs.30 lakhs within a period of three weeks. In such circumstances, it is for the respondent/Bank to consider whether the Account can be regularised by accepting Rs.30 lakhs.
- (5) It is now represented by the learned counsel for the Bank that the property has now been sold in public auction and the sale may be confirmed in case the petitioner does not deposit the amount as directed by the Tribunal.
- (6) In case, the sale is not confirmed on any ground, it is open to the petitioner to approach the respondent/Bank for rescheduling the entire loan or for One Time Settlement, by submitting an application. When the petitioner submits a representation to the respondent/Bank for reschedulement, the Bank is directed to consider the same on merits having regard to the financial capacity and the fact whether the petitioner's poultry farm is capable of discharging the mortgage loan as per the schedule that may be drawn by the respondent/Bank, within a period of sixteen weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. Till such time, the



WP.No.16015/2024

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respondent/Bank takes a decision, the property of the petitioner shall not be proceeded with.

(7)Therefore, with the liberty to the petitioner to approach the respondent/Bank for rescheduling the loan account in case the sale is not confirmed, or to pursue his remedy before DRAT, this writ petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [N.S., J.]
19.06.2024

AP

Internet : Yes

To
Authorised Officer
M/s.Canara Bank
Specialized Agricultural Branch
May Flower Complex, evidence Floor 121,
11th Street, Tatabad, Coimbatore.



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WP.No.16015/2024

S.S. SUNDAR, J.,
and
N.SENTHILKUMAR, J.,

AP

WP.No.16105/2024

19.06.2024