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W.P.(MD) No.3561 of 2024

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 15.02.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR  
and  
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD) No.3561 of 2024  
and  
W.M.P.(MD) No.3500 of 2024**

S.Venkatachalam

... Petitioner

-VS-

The Authorized Officer  
ICICI Bank Limited  
24<sup>th</sup> South Phase, Arihant Tower  
2<sup>nd</sup> Floor, East Wing BLG, Ambattur  
Industrial Estate, Ambattur  
Chennai-600 058

... 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 order dated 20.12.2023, passed by the learned Chief Judicial Magistrate, Pudukkottai, in Cr.M.P.No.687 of 2023, under Section 14 of the SARFAESI Act, 2002, in pursuance thereof Advocate Commissioner issued notice dated 01.02.2024



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fixing to take physical possession of the secured asset on 16.02.2024 and quash the same.

For Petitioner : Mr.G.Sridharan

For Respondent : Mr.A.Anbalagan

**ORDER**

**[Order of the Court was made by D.KRISHNAKUMAR, J.]**

Mr.A.Anbalagan, learned counsel, takes notice for the respondent – Bank.

**2.** With the consent of both sides, this writ petition is taken up for final hearing at the admission stage itself.

**3.** Challenge in this writ petition is to the order dated 20.12.2023, passed in Cr.M.P.No.687 of 2023, by the learned Chief Judicial Magistrate, Pudukkottai, under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity “the SARFAESI Act”).



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4. According to the petitioner, earlier challenging the possession notice issued by the respondent – Bank under Section 13(4) of the SARFAESI Act, he filed S.A.No.37 of 2023, wherein the Debts Recovery Tribunal granted an interim conditional order in his favour. However, due to some financial constraints, he could not comply with the interim conditional order. In such circumstances, the impugned order came to be passed by the learned Chief Judicial Magistrate appointing an Advocate Commissioner to take physical possession of the secured asset. Hence, he has filed this writ petition before this Court seeking to quash the impugned order passed by the learned Chief Judicial Magistrate.

5. Learned counsel for the petitioner submitted that the petitioner, in order to show his *bona fides*, undertakes to pay a sum of Rs.10,00,000/- (Rupees ten lakhs only) to the respondent – Bank by 12.00 Noon on 16.02.2024; 25% of the outstanding amount on or before 29.02.2024 and the remaining outstanding amount in fourth equal monthly installments commencing from 31.03.2024 to 30.06.2024 and to that effect, he has produced an undertaking affidavit dated 15.02.2024 before this Court.



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**6.** Learned counsel appearing for the respondent – Bank, though initially made an objection since the petitioner was a defaulter in complying the interim conditional order passed by the Debts Recovery Tribunal earlier, however, subsequently, in view of the undertaking given by the petitioner agreeing to repay the amount due as stated above, he has no objection for considering the request of the petitioner.

**7.** Considering the above facts and circumstances, we are inclined to pass the following orders:

- (i) The petitioner shall pay a sum of Rs.10,00,000/- (Rupees ten lakhs only) by 12.00 Noon on 16.02.2024.
- (ii) On such payment, the respondent – Bank shall defer further proceedings pursuant to the impugned order passed by the learned Chief Judicial Magistrate, Pudukkottai.
- (iii) The petitioner shall pay 25% of the outstanding amount on or before 29.02.2024.



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- (iv) The petitioner shall pay the balance outstanding amount in four equated monthly installments commencing from March, 2024. The monthly installments shall be paid on or before 15<sup>th</sup> of every succeeding month.
- (v) The difference amount if any, interest payable for the interregnum period and other expenses, shall be paid by the petitioner along with the last installment.
- (vi) If there is any default in payment as directed above, the respondent – Bank can proceed further to take possession of the secured asset as well as for recovery of the amount due, without any further reference to this Court.
- (vii) The undertaking affidavit of the petitioner, dated 15.03.2024, shall form part of the records.



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**8.** With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

**[D.K.K., J.]**

**[R.V., J.]**

**15.02.2024**

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

**Note to Office:**

Issue order copy today.

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To:

The Chief Judicial Magistrate,  
Madurai.



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**D.KRISHNAKUMAR, J.**  
**and**  
**R.VIJAYAKUMAR, J.**

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**W.P.(MD) No.3561 of 2024**  
**and**  
**W.M.P.(MD) No.3500 of 2024**

**15.02.2024**