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W.P.(MD) No.5355 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.5355 of 2024

and

W.M.P.(MD)Nos.5134 and 5136 of 2024

K.Mohammed Ashik

... Petitioner

-Vs-

The Authorized Officer,
Indian Bank,
Madurai Main Branch,
Madurai

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for further proceedings under the SARFAESI Act pursuant to the impugned order dated 20.02.2024 in Cr.M.P.No.103 of 2024 issued by the learned Chief Judicial Magistrate Court, Madurai and quash the same.

For Petitioner : Mr.K.Rajeshwaran

For Respondent : Mr.M.Shameem Banazeer



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ORDER

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

As against the order passed by the learned Chief Judicial Magistrate, Madurai for taking possession of the property belonging to the petitioner, this writ petition is filed.

2.The petitioner has borrowed a loan from the respondent bank to the tune of Rs.33,00,0000/- by mortgaging the title deeds of his house property. Due to the lock down owing to Covid-19 pandemic, the petitioner was not able to repay the due amount in regular intervals. Hence, the respondent bank initiated the proceedings under the SARFAESI Act against the petitioner and issued the sale notice and thereafter, the impugned order of taking possession of the property was also passed by the learned Chief Judicial Magistrate, Madurai.

3.The learned counsel for the respondent bank submits that challenging the sale notice issued by the respondent bank, the petitioner has approached the Debts Recovery Tribunal, Madurai and obtained an order of interim stay on condition to pay 50% of the outstanding due amount in two equal



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monthly instalments. However, the petitioner has failed to pay the said amount.

Hence, the respondent bank has filed an application under Section 14 of the SARFAESI Act and obtained an order of taking possession of the property.

4.Today, when the matter is taken up for hearing, the learned counsel for the petitioner submits that the petitioner is ready to pay a sum of Rs. 3,50,000/- to the respondent bank by today itself (i.e., 06.03.2024) to show his *bona fide* and further, he requests this Court to grant time to pay the remaining due amount on instalment basis.

5.We are of the view that since the SARFAESI proceedings is pending before the Tribunal, the petitioner has to approach the Debt Recovery Tribunal seeking extension of time to comply with the conditional order or the Debt Recovery Appellate Tribunal challenging the order passed by the Chief Judicial Magistrate, Madurai. Hence, this Court is not inclined to accept the contentions raised by the writ petitioner. However, since the petitioner prepared to pay a sum of Rs.3,50,000/- (Rupees Three Lakhs Fifty Thousand only), if the petitioner pays the said amount by today (i.e., 06.03.2024) itself to the respondent bank, the order of taking possession of the property shall be kept in



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abeyance for a period of two weeks (i.e., till 21.03.2024) enabling the petitioner to approach the Tribunal.

6. With the above direction, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

[D.K.K., J.] & [R.V., J.]
06.03.2024

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

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To

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D.KRISHNAKUMAR, J.

AND

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