



WEB COPY



W.P.(MD)No.19186 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD)No.19186 of 2024
and
W.M.P.(MD)Nos.16244 and 16245 of 2024**

V.Palaniappan

... Petitioner

-VS-

1.The Director,
The Reserve Bank of India,
No.6, Rajaji Road,
Fort St. George,
Chennai.

2.The South Indian Bank Limited,
Anna Nagar Branch, Madurai,
Having its office at SIB HOUSE”
& Having one of its Regional
Officer at Madurai,
1st Floor, YMCA Building,
70 Feet Road, Ellis Nagar,
Madurai-625 001.
Represented by its Chief Manager /
Authorized Officer.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the Impugned order issued by the learned Chief Judicial Magistrate, Madurai in Cr.M.P.No.693 of 2023 dated 15.06.2024 for taking Physical Possession over the Mortgage property and quash the same on the ground that the same is arbitrary, illegal.



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For Petitioner : Mr.D.Gurusamy

For R-2 : Mr.T.Thevan

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

The petitioner challenges the order of the learned Chief Judicial Magistrate, Madurai, dated 15.06.2024, made under Section 14 of the SARFAESI Act, 2002. The petitioner is a persistent defaulter. The petitioner challenged the 13(4) notice dated 08.05.2023 issued by the 2nd respondent Bank in W.P.(MD)No.13321 of 2023. We stayed the operation of the notice on the following conditions:

“(i) We stay all further proceedings pursuant to the possession notice dated 08.05.2023, if the petitioner pays a sum of Rs.30,00,000/- (Rupees Thirty Lakhs only) to the second respondent – Bank, on or before 07.07.2023.

(ii) The remaining amount shall be paid by the petitioner in five equated monthly installments commencing from 07th August, 2023. The monthly installments shall be paid on or before 07th of every succeeding month.

(iii) The interest that accrues in the interregnum and the cost of the sale shall be paid along with the last installment.



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(iv) In the interregnum, the bank and the petitioner shall sit together and resolve the difference regarding the remaining amount of Rs.6,00,000/- (Rupees Six Lakhs only).

(v) If there is a 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.”

2. Thereafter, when the petitioner was visited with a sale notice, the same was questioned by the petitioner in S.A.No.641 of 2023 before the Debt Recovery Tribunal, Madurai. The Debt Recovery Tribunal, Madurai, by its order dated 09.11.2023, permitted the petitioner to pay the balance amount in seven equal monthly installments of Rs.13,64,000/- (Rupees Thirteen Lakhs Sixty Four Thousand only) each. The petitioner did not comply either with our order dated 08.06.2023 or with the order of the Debt Recovery Tribunal dated 09.11.2023, except paying a sum of Rs. 30,00,000/- (Rupees Thirty Lakhs only) as per clause (i) of our order dated 08.06.2023. The petitioner again approached this Court in W.P.(MD)No. 4704 of 2024, challenging the e-auction notice dated 05.02.2024. A co-ordinate Bench of this Court taking note of the persistent default on the part of the petitioner dismissed the Writ Petition.

3. After all this, the petitioner has now come up with the instant writ petition, challenging the order of the learned Chief Judicial Magistrate



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made under Section 14. This writ petition amounts to complete abuse of process of Court. Despite the fact that the Hon'ble Supreme Court had repeatedly pointed out that High Courts should be slow in interfering with SARFAESI proceedings, this Court as well as the Debt Recovery Tribunal had extended indulgence to the petitioner, the petitioner has not taken advantage of the indulgence shown and hence, we see no merit in the writ petition and the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

4. It is stated that the petitioner has paid Rs.30,00,000/- (Rupees Thirty Lakhs only) on 31.08.2023 and is willing to pay the balance amount within three months. If he complies with the undertaking, the bank may consider and dropping further proceedings.

[R.S.M., J.]

[L.V.G., J.]

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