



W.P.(MD)No.21657 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2024

CORAM:

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

**W.P.(MD)No.21657 of 2024
and
W.M.P.(MD)Nos.18290 and 18291 of 2024**

Senthilmurugan, S/o.Subbarayan

... Petitioner

-VS-

1.Piramal Capital and Housing Finance Limited,
(Formerly Dewan Housing Finance Corporation Limited),
Represented by its Authorized Officer,
Mr.R.Shanbaga Vignesh,
Unit No.601, 6th Floor, Amiti Building,
Agastya Corporation Park,
Kamani Junction,
Opp. Fire Station, LBS Marg,
Kulra (West), Mumbai – 400 070.

2.Piramal Capital and Housing Finance Limited,
(Formerly Dewan Housing Finance Corporation Limited),
The Branch Manager,
Coimbatore Branch,
No.171A and 171B, Raju Naidu Road,
Sivanantha Colony,
Coimbatore – 641 012.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order in CrI.M.P.No.6372 of 2023 made on 10.11.2023 passed by the Hon'ble Chief Judicial Magistrate, Karur, quash the same and consequently, direct the respondent bank to remove lock and seal of the petitioner's property in Survey No.440/3 and 440/38, situated at K.P.Nagar 6th Street, Plot No.7/ North Part Karur Town, Erode Road, Karur Taluk and District.

For Petitioner : Mr.K.Kevinkaran

For Respondents : Mr.P.Pethu Rajesh

ORDER

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

Mr.P.Pethu Rajesh, learned counsel takes notice for the respondent financial Institution.

2. The challenge in this Writ Petition is to the order of the learned Chief Judicial Magistrate, Karur, made under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [hereinafter referred to as "the SARFAESI Act"].



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3. The learned counsel appearing for the petitioner would submit that after the order of the learned Chief Judicial Magistrate, the petitioner has paid certain amounts and a working arrangement was made between the respondent financial institution and the petitioner, for liquidating the entire debt. Since the petitioner could not meet the deadline, the financial institution has also taken possession of the property. He would, however, submit that the petitioner is ready to liquidate the loan, if he is given sometime.

4. Mr.P.Pethu Rajesh, learned counsel appearing for the respondent financial Institution would submit that the dues as of today are Rs.41,85,144/- and there is no justification for the claim of the petitioner, since the financial Institution has postponed taking possession of the property for nearly a year from the date of order of the learned Chief Judicial Magistrate, Karur, believing the assurance given by the petitioner.

5. We have considered the rival submissions.



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6. No doubt, the conduct of the petitioner has not been above board.

Even after obtaining an order under Section 14 of the SARFAESI Act, the financial Institution has chosen to give indulgence to the petitioner and offer to take back the money in installments. The same has not been availed of by the petitioner. However, considering the fact that the property is a dwelling house of the petitioner and it is his only property, we feel that the petitioner should be given an opportunity to repay the loan and retrieve the property. We, therefore, direct the petitioner to pay a sum of Rs.10,00,000/- within a period of four weeks from today. The remaining amount shall be paid in six consecutive equal monthly installments. The installments will commence after four weeks from today. The interest that accrues in the meantime and cost shall be paid along with the final installment. After payment of first three installments, the financial institution will hand over the possession to the petitioner. In the event of default on any installment, the financial institution will have the right to not only proceed with the sale but also take possession of the property. This can be done without needing to approach the learned Chief Judicial Magistrate again, and the Institution may seek the assistance of local Police, if necessary.



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7. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

NCC : No
Index : No
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[R.S.M., J.] [L.V.G., J.]
12.09.2024

Note:- Issue order copy on 13.09.2024.



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