



W.P.(MD) No.5002 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.02.2025

CORAM:

THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

AND

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P.(MD)No.5002 of 2025

and

W.M.P.(MD)No.3613 of 2025

S.Gowsi Shahjahan

... Petitioner

-Vs-

The Authorized Officer,
M/s.HDFC Bank Ltd.,
No.406, Sakthi Sivam Plaza,
Pumping Station Road,
9th Cross Street, K.K.Nagar,
Madurai-625 020.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent not to evict the petitioner in peaceful residing in New No.42, Old Corporation Ward No.54, Madurai Survey Ward No.4, Madurai South Taluk, Madurai South Joint IV, SRO, Madurai District.

For Petitioner : Mr.S.Pugalendhi

For Respondent : Mr.M.Senthil Kumar



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ORDER

[Order of the Court was made by *J.NISHA BANU, J.*]

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By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2.It is the case of the petitioner that she availed loan from the respondent Bank. Due to non-payment of the same, her account has been classified as NPA and SARFAESI proceedings were initiated. Thereafter, the respondent filed Cr.M.P.No.4390 of 2024 before the learned Chief Judicial Magistrate, Madurai, seeking assistance for taking possession of the petitioner, which was allowed on 10.10.2024. Challenging the same, the petitioner has filed S.A.No.717 of 2024 along with stay application before the Tribunal and the same is pending. However, once again, the respondent filed Cr.M.P.No.4390 of 2024 before the learned Chief Judicial Magistrate, Madurai, seeking assistance for taking possession of the petitioner. Pursuant to the same, Advocate Commissioner has been appointed and date has been fixed for taking possession on 25.02.2025. Therefore, the petitioner has filed this Writ Petition, restraining the respondent from evicting her from the peaceful possession in New No.42, Old Corporation Ward No.54, Madurai Survey Ward No.4, Madurai South Taluk, Madurai South Joint IV, SRO, Madurai District.



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3.Mr.M.Senthil Kumar, learned counsel appearing for the respondent

would submit that in the appeal filed by the petitioner, the Tribunal has passed a conditional order, granting three equal monthly instalments to the petitioner to pay 35% of the due amount of Rs.39,92,718/-. As per the conditional order, the petitioner has to pay 1st instalment of Rs.4,66,000/- on or before 30.11.2024; 2nd instalment of Rs.4,66,000/- on or before 30.12.2024; and 3rd instalment of Rs.4,66,000/- on or before 30.01.2025. However, the petitioner has not complied with the said conditional order and as of now, she has paid only a sum of Rs.2,00,000/-.

4.In view of the aforesaid submission, we are of the view that though the Tribunal has granted a conditional order, without complying the same, the petitioner has filed this Writ Petition. Therefore, we are not inclined to entertain this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[J.N.B., J.] & [S.S.Y., J.]
24.02.2025

NCC : Yes / No
Index : Yes / No

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