



W.P.(MD) No.7943 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2025

CORAM:

**THE HONOURABLE MR.K.R.SHRIRAM, CHIEF JUSTICE
and
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**W.P.(MD) No.7943 of 2025
and
W.M.P.(MD) No.5981 of 2025**

S.Marimuthu

... Petitioner

-VS-

- 1.The Reserve Bank of India
South Zone, Fort Glacis
No.16, Rajaji Road
Fort St.George
Chennai-600 001
- 2.M/s.Cholamandalam Investment
and Finance Company Ltd.,
through its Managing Director
No.54 & 55, Superb-4
Thiru Vi Ka Nagar Industrial Estate
Guindy, Chennai-600 032



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3.The Authorized Officer
M/s.Cholamandalam Investment and
and Finance Company Ltd.,
No.41A, Miranda Lane ST Complex
Allinagaram Municipality Back Side
Theni – Allinagaram
Theni-625 531

4.The Manager
M/s.Cholamandalam Investment
and Finance Company Ltd.,
No.2 & 3, G.V.Tower, 3rd Floor
Melakkal Main Road
Madurai-625 016

5.Sugeerthan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus seeking direction to direct the second respondent to foreclose the loan account and consequently handover the possession of the scheduled property and title deeds in survey No.801/1B, Ward No.4, new Ward No.12, Block No.9, new Door No.81, extent of 1098 sq.ft., situated at Bodinayakanur, Theni District, by consider the representation of the petitioner dated 12.03.2025.

For Petitioner : Mr.P.Venkatesan

For Respondents : R1 – Service awaited
Mr.P.Pethu Rajesh



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Standing Counsel for R2 to R4
Ms.M.Muthu Kavitha
for Mr.K.Muthu Ganesa Pandian for R5

ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

Petitioner had availed a term loan of Rs.21,00,000/- from respondent No. 2 on 29th August, 2022. He also deposited the title deeds of a property bearing Door No.81 (Old Door No.47), Periyandavar High Road, Bodinayakkanur Town (mortgaged property) with respondent No.2. Petitioner had taken this term loan to develop his business that was running in the name and style of “Royal Welcome Sweets and Bakery” at Bodinayakkanur.

2. Petitioner states that he was paying the installments from time to time up to June, 2024, which counsel for respondent No.2 disputes, but, subsequently, due to certain reasons, he was unable to pay. The account was declared as NPA and Respondent No.2 issued a possession notice on 17th May, 2024, which was followed by a sale notice dated 27th June, 2024, in which, it was stated that an outstanding of Rs.20,19,516/- was payable. The sale was fixed on 31st July, 2024 at 11.00 a.m. Petitioner immediately approached the Debts



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Recovery Tribunal at Madurai by filing Securitization Application, being S.A.No. 456 of 2024, along with stay application. The Debts Recovery Tribunal, by an order dated 22nd July, 2024, granted interim stay on condition that petitioner would pay a sum of Rs.1,00,000/- on or before 31st July, 2024 and 40% of the remaining amount in three equal monthly installments directly to respondent No.3, the Authorized Officer of respondent No.2. Accordingly, 40% was payable on 31st August, 2024, 01st October, 2024 and 01st November, 2024.

3. Though the affidavit is not happily worded, counsel for petitioner states that petitioner paid the installment of Rs.1,00,000/- that fell on 31st July, 2024, but did not make any further payment. Therefore, the petitioner moved the Debts Recovery Tribunal for extension of time. This application was filed on 30th September, 2024. In the meanwhile, petitioner came to know that respondent No.3, in view of the failure on the part of petitioner to comply with the condition of paying the balance of 40%, has proceeded to sell the mortgaged property to respondent No.5 and a sale certificate had also been issued on or about 26th September, 2024, in favour of respondent No.5. In fact, after petitioner realized that the mortgaged property has been sold, he moved the Debts Recovery Tribunal for extension of time. The Debts Recovery Tribunal, by an order dated



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4. Therefore, effectively, there is a stay on the sale of the mortgaged property, because the order of 03rd February, 2025 will relate back to 22nd July, 2024, by which an ad interim stay was granted on the sale of the mortgaged property. In fact, the order dated 22nd July, 2024 states that if petitioner complies with the condition, the stay granted shall made absolute pending disposal of the securitization application. Therefore, the time having been extended to pay the installments as per the condition imposed on 22nd July, 2024 and the petitioner having complied the condition within the extended period, the stay on the Bank proceeding with the sale of the mortgaged property has become absolute.



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5. Counsel for petitioner states that the Bank has preferred an appeal against the order dated 03rd February, 2025, but, it is yet to be numbered.

6. In the circumstances, we dispose this petition by noting that as on date, there is an order of stay on the sale of the mortgaged property. This is subject to whatever the Debt Recovery Appellate Tribunal may say on the appeal filed by the Bank.

7. In view of the above, the order dated 03rd February, 2025 passed by the Chief Judicial Magistrate has become *non est*. It is open to the Bank to proceed further again after its appeal is disposed by the Debt Recovery Appellate Tribunal or if the securitization application filed by petitioner, being S.A.No.456 of 2024, is rejected by the Debts Recovery Tribunal.

8. There shall be no order as to costs. Consequently, interim application stands dismissed.

[K.R.SHRIRAM., C.J.]

[P.B.BALAJI, J.]

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Index : Yes / No

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To:

- 1.The Presiding Officer,
Debts Recovery Appellate Tribunal,
Chennai.
- 2.The Presiding Officer,
Debts Recovery Tribunal,
Madurai.

THE HON'BLE CHIEF JUSTICE
and
P.B.BALAJI, J.

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