IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4/11/2015

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

WP.No.24124 of 2015
and
MP.No.1 of 2015

N.Thirumalai .... Petitioner

Versus

George Town Co-operative Bank Ltd.,
Rep.by its General Manager,
New No.2(Old No.62),
Krishnappa Agraharam Street,
George Town,
Chennai-600 079. ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus to call for the records pertaining to the impugned Final Notice Before Arbitration dated 17.06.2015 issued by the respondent, quash the same as illegal, arbitrary and against principles of natural justice and consequently direct the respondent to consider and accept the settlement proposal made by the petitioner on 23.06.2015.

For Petitioner : Mr.R.Nagasundaram

For Respondent : Mr.S.Ravi

O R D E R

With the consent of the learned counsel appearing on either side, the writ petition is taken up for final disposal.

2. Heard Mr.R.Nagasundaram, learned counsel appearing for the petitioner and Mr.S.Ravi for the respondent.

3. The petitioner, is a borrower of housing loan, has filed this writ petition, challenging the final notice issued by the respondent Co-Operative Bank Ltd, before initiating arbitration proceedings. The petitioner would state that due to financial constraint, he could not promptly repay the loan, but he is ready and willing to settle the entire loan, by offering a sum of Rs.8,00,000/- (Rupees Eight lakhs only), as full and final settlement, over and above the amount already paid.

4. Mr.S.Ravi, learned counsel appearing for the respondent has raised a preliminary objection with regard to the maintainability of the writ petition stating that the writ petition is not maintainable against the Co-operative Society.

5. Furthermore, it is stated that the impugned order is a final notice and if the petitioner fails to comply with the demand, automatically arbitration proceedings will be initiated under Section 90 of the Tamil Nadu Co-Operative Societies Act 1993 and it appears that the respondent Bank is not immediately ready to accept the petitioner's offer at Rs.8,00,000/- as full and final settlement.

6. In view of the above, the writ petition is disposed of, by directing the respondent Bank to initiate arbitration proceedings under Section 90 of the said Act and issue notice, after following the procedure contemplated under the Act. Till award is passed, no coercive action shall be initiated against the petitioner. Needless to state that it is always open to the respondent Bank to consider the offer made by the petitioner to settle the loan amount by offering Rs.8,00,000/- either by themselves or before the Arbitrator. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mvs/dn

To

The General Manager,
George Town Co-operative Bank Ltd.,
New No.2(Old No.62),
Krishnappa Agraharam Street,
George Town, Chennai-600 079.

+1cc to Mr.S. Ravi, Advocate, S.R.No.60565
+1cc to Mr.R. Naga Sundaram, Advocate, S.R.No.60584

PA(CO)
EU(24/11/2015)

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