BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.02.2015
CORAM:

THE HONOURABLE DR. JUSTICE S.TAMILVANAN
and
THE HONOURABLE MR. JUSTICE V.S.RAVI

W.P.(MD)No.2648 of 2015 and M.P.(MD)No.1 of 2015

P.Dhasammal ... Petitioner

Vs.

1.The Branch Manager,
HDFC Bank Ltd.,
Court Road,
Nagercoil, Kanyakumari District.

2.The Divisional Manager,
HDFC Bank Ltd., (House)
Vazhuthacaud,
Post Box No.2288,
Tiruvananthapuram 695 010.

3.The Managing Director,
Registered Office Raman House,
H.T.Parekh Marg,
No.169, Bakbav Reelamatin,
Churchagate,
Mumbai 400 020.

4.The Authorized Officer,
Mr.Moses Ruban
No.145, Bharathipuram,
Shenay Nagar, Thenampet,
Chennai 600 030. ... Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to close the loan account and direct the respondents to return the documents pledged by the petitioner.

For Petitioner : Mr.S.Titus

O R D E R
(Order of this Court was made by S.TAMILVANAN,J.)

The Writ petitioner has been filed invoking Article 226 of the Constitution of India, seeking a direction against the respondents to close the loan account and return the documents pledged by the petitioner.

2.Heard the learned counsel appearing for the petitioner.

3.From the averments made in the accompanying affidavit, it is clear that the petitioner is a debtor and he pledged certain documents relating to immovable and obtained loan from the respondent's Bank. Without settling the loan amount, the petitioner cannot ask any direction against the respondents to close the loan account and return the documents pledged by him. The Writ petition is based on a disputed question of fact, which cannot be decided without adducing evidence and if it comes under SARFAESI Act, the remedy would be before the appropriate Tribunal. Simply by saying that the interest claimed by the respondents are against law, the petitioner cannot maintain the Writ petition under Article 226 of the Constitution of India, with a vague prayer seeking a direction to close the loan account and to return the documents pledged by him. Hence, the relief sought for is legally maintainable.

4.On the aforesaid facts and circumstances, we are of the view that the Writ petition is liable to be dismissed as not maintainable.

5.In the result, the Writ petition is dismissed. However, it is made clear that the petitioner is at liberty to approach the appropriate forum according to law.

No costs. Consequently, connected M.P.is closed.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To
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Shenay Nagar, Thenampet, Chennai 600 030.

+1cc to Mr.S.Titus, Advocate SR.No.9236

WP(MD)No.2648 of 2015
27.02.2015

nbj
PA/31.03.2015/2P/6C