



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :22.06.2015

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THE HONOURABLE **MR. JUSTICE R. MAHADEVAN**

W.P (MD) .No.14550 of 2011

G.Rajammal

... Petitioner

Vs

1.The Branch Manger,

Tamil Nadu Industrial Co-operative Bank Ltd.,
(TAICO Bank), Sattur Town, Virudhunagar District.

2.The Additional Director / Special Officer,

TAICO Bank, Chennai-28. ... Respondents

This Writ Petition has been filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent dated 04.11.2011 and to quash the same and consequently direct the respondents to pay the balance auction sale amount of Rs.3,82,324/- to the petitioner within the time stipulated by this Court.

For petitioner : Mr.M.Thirunavukkarasu

For respondents : Mr.T.Lajapathi Roy

ORDER

The petitioner has come forward with this Writ Petition praying for a a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the first respondent dated 04.11.2011 and to quash the same and consequently direct the respondents to pay the balance auction sale amount of Rs.3,82,324/- to the petitioner within the time stipulated by this Court.

2. The short facts involved in this Writ Petition are that the petitioner had availed loan from the respondents bank and she could not repay the said loan amount since 2004. Thereafter, the respondents initiated proceedings against the petitioner and realized the amount due to them. After realizing the amount, the respondents failed to repay the excess amount of Rs.3,82,324/- to the petitioner on the ground that the petitioner's son and therefore, it was informed that the excess amount will be adjusted towards the loan availed by the children of the petitioner.



Aggrieved over the same, the petitioner is before this Court for the relief stated supra.

3. The learned Counsel for the petitioner would submit that for the loan availed by the children of the petitioner, the petitioner cannot be made a scapegoat and the action of the respondents is unsustainable in law. In support of his contention, he also cited a Division Bench judgment of this Court in the case of **State Bank of Indian and another Vs. Mrs. Jayanthi and others**, reported in **AIR 2011 MADRAS 179**, to state that general lien cannot be made applicable in the case on hand.

4. *Per contra*, the learned Counsel for the respondents would submit that after deducting the loan amount availed by the petitioner, the remaining amount was adjusted towards the loan availed by the children of the petitioner. The action of the respondents in nothing wrong, more particularly, the petitioner had given an undertaking that she will be responsible if the loan amount availed by the children of the petitioner is not repaid to the respondents. Such undertaking is still existing with the respondents.

5. In view of the specific stand of the respondents that the undertaking given by the petitioner is in force, the respondents bank could not be found fault with in adjusting the excess amount towards the other loan availed by the family members of the petitioner. The undertaking given by the petitioner is also not refuted by the petitioner. Therefore, the order impugned in this Writ Petition stands confirmed and consequently, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(T & P)

/True Copy/

Sub Assistant Registrar

To

1.The Branch Manger,
Tamil Nadu Industrial Co-operative Bank Ltd.,
(TAICO Bank), Sattur Town, Virudhungar District.

2.The Additional Director / Special Officer,
TAICO Bank, Chennai-28.

+1cc to MR.M.Thirunavukkarasu, Advocate Sr.No.32531

+1cc to MR.T.Lajapathi Roy, Advocate Sr.No.33451

ssm