



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.08.2015

CORAM:

THE HONOURABLE Mr.JUSTICE R.SUBBIAH
W.P. (MD)Nos.3755 and 3756 of 2013
and M.P. (MD)No.1 of 2013

WEB COPY

W.P. (MD)No.3755 of 2013:

K.Stalin

... Petitioner

Vs.

1.The Inspector of Police,
Aralvaimozhi Police Station,
Aralvaimozhi,
Kanyakumari District.

2.The Mothoot Finance FinCorp.Ltd.,
W 08/76, 58 C,Ground Floor,
Main Road,
Aralvaimozhi,
Kanyakumari District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to take appropriate action against the 2nd respondent for the petitioner's complaint dated 07.03.2013 and direct to handover the jewels to the petitioner from the 2nd respondent by receiving the reasonable interest along with principal amount as per the relevant rules.

W.P. (MD)No.3756 of 2013:

S.Samuvel Perinba Navamoni

... Petitioner

Vs.

1.The Inspector of Police,
Aralvaimozhi Police Station,
Aralvaimozhi,
Kanyakumari District.

2.The Mothoot Finance FinCorp.Ltd.,
W 08/76, 58 C,Ground Floor,
Main Road,
Aralvaimozhi,
Kanyakumari District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to take appropriate action against the 2nd respondent for the petitioner's complaint dated 07.03.2013 and direct to handover the jewels to the petitioner from the 2nd respondent by receiving the reasonable interest along with principal amount as per the relevant rules.



For Petitioners : Mr.K.Sudalaiyandi
For Respondents : Mrs.S.Bharathi, G.A.for R1
Mr.V.Raghavachari for R2

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COMMON ORDER

These Writ petitions have been filed for issuance of a Writ of Mandamus, directing 1st respondent to take appropriate action against the 2nd respondent for the petitioners' complaint dated 07.03.2013 and direct to handover the jewels to the petitioners from the 2nd respondent by receiving the reasonable interest along with principal amount as per the relevant rules.

2.The petitioners have pledged their gold jewels with the second respondent by way of executing a mortgage loan agreement and borrowed certain amounts. The grievance of the petitioners is that they were ill-treated by the Manager of the second respondent finance company and without receiving reasonable interest, they have been threatened to pay the exorbitant interest and they have also abused the petitioners in filthy language.

3.Learned counsel appearing for the second respondent would submit that the petitioners had obtained jewel loans from the second respondent and the allegation of threat as against the Manager of the second respondent finance company is false. Further, he would submit that the petitioners have availed the jewel loan from the second respondent at the reasonable interest, after signing the loan documents and therefore, they are estopped from raising such allegations as against the second respondent.

4.The recovery of the loan amount is not a subject matter of the writ petitions. However, if the second respondent is in possession of relevant documents and loan agreement and the petitioners have failed to repay the borrowed loan amount within the time stipulated, the second respondent can proceed with the recovery proceedings in accordance with the loan agreement which shall be in the manner known to law. However, on default, the second respondent is not entitled to ill-treat the petitioners and they can recover the loan amount from the petitioners following due procedure.

5.Learned counsel appearing for the petitioners would submit that the petitioners are ready and willing to pay the principal amount, if reasonable interest is calculated. In this regard, the learned counsel appearing for the second respondent would state that the petitioners have agreed to pay the contractual interest. This Court is not inclined to go into this aspect. However, the interest to be paid should be reasonable and should not be exorbitant.



6. Accordingly, this writ petitions are disposed of by observing that the petitioners shall not be threatened by the second respondent. However, it is open to the second respondent to proceed for the recovery of loan amount in accordance with the loan agreement as well as in the manner known to law and it is open to the petitioners to approach the second respondent with a reasonable offer and the second respondent shall consider the same. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Aralvaimozhi Police Station,
Aralvaimozhi,
Kanyakumari District.
2. The Mothoot Finance FinCorp.Ltd.,
W 08/76, 58 C, Ground Floor,
Main Road,
Aralvaimozhi,
Kanyakumari District.

+ 2 CC TO MR.S.RAMESH, ADVOCATE IN SR NO. 47390, 47391
+ 2 CC TO MR.K.SUDALAIYANDI, ADVOCATE IN SR NO. 47203, 47204
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR NO. 47167

NBJ

TE/AN-MP/ 29/09/2015 3P/8C

W.P. (MD) Nos. 3755 and 3756 of 2013
17.08.2015