

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

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WRIT PETITION No.1200 OF 2015

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ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

A peculiar relief is sought for in this Writ Petition. Having issued a cheque to the respondent Bank, the petitioner now invokes the jurisdiction of this Court, under Article 226 of the Constitution of India, to direct the respondent Bank not to encash the said cheque.

The petitioner obtained a housing loan of Rs.45,00,000/- from the respondent Bank, repayable in easy monthly instalments. On the ground that the petitioner had defaulted in payment of the monthly instalments, the respondent Bank took action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner, thereafter, paid Rs.20,00,000/- after which possession of the house, from which his family was evicted earlier, was redelivered to him.

It is the petitioner's case that the instalments due till that date was only for Rs.16,35,000/-, whereas the respondent Bank had collected an additional sum of Rs.3,65,000/-; and this Court should issue a mandamus to the respondent Bank not to encash the said cheque. Admittedly, the petitioner has paid only Rs.16,35,000/- as against the total loan with interest of Rs.52,54,678/-. Even, according to the petitioner, the respondent Bank has collected only Rs.3,65,000/- more than the E.M.I. arrears payable by him. Even after adjustment of Rs.3,65,000/-, the petitioner would still be due, a substantial amount as loan, to the respondent Bank.

The question whether the respondent Bank, while regularising the petitioner's account, should recover only the arrears of E.M.Is. due till that date, or whether it is entitled to recover Rs.3,65,000/- more, are not matters for this Court to determine in proceedings

under Article 226 of the Constitution of India. Having issued the cheque dated 10.01.2015 for Rs.3,65,000/-, the petitioner cannot now be heard to contend that a mandamus should be issued to the respondent Bank not to encash the said cheque. The Writ Petition as filed is wholly misconceived, and is dismissed with exemplary costs of Rs.5,000/- (Rupees Five Thousand only).

The miscellaneous petitions pending, if any, shall also stand dismissed.

RAMESH RANGANATHAN, J

M. SATYANARAYANA MURTHY, J

Date:09.03.2015.

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