BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition(MD)No.10628 of 2016

A.Samuel Rajan ...Petitioner

Vs.

1.The Chief Manager,
Indian Overseas Bank,
Educational Loan Department,
Marketing & Development Department
No.763, Annex Building,
Central Office, 3rd Floor,
Anna Salai, Mount Road,
Chennai-02.

2.The Chief Regional Manager,
Indian Overseas Bank,
Regional Office,
Tirunelveli Town-06.

3.The Manager,
Indian Overseas Bank,
High Ground Branch,
Tirunelveli-11. ...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 3rd respondent to return the entire original documents, Loan Clearance Certificate as well as to execute the registered discharge receipt in respect of A/c. No.138503951000008 Scheme Code Vidya Jothi Educational Loan on the file of 3rd respondent Bank viz. Indian Overseas Bank, High Ground Branch, Tirunelveli.

For Petitioner : Mr.D.Rajkumar
For Respondents : Mr.N.Dilipkumar

ORDER

This Writ Petition has been filed directing the third respondent to return the entire original documents, Loan Clearance Certificate and to execute the registered discharge receipt in respect of A/c. No.138503951000008, in Vidya Jothi Educational Loan on the file of 3rd respondent Bank.

2.According to the petitioner, in the year 2010, he applied for educational loan for his son before the third respondent and a sum of Rs.9,61,419/- was sanctioned. Subsequently, the petitioner approached the respondent Bank for waiver of interest and to settle the entire loan amount by way of One Time Settlement and it was not accepted by the respondent Bank. However, they issued notices to the petitioner under the SARFAESI Act and those notices were suitably replied by the petitioner. Finally, the respondents intimated the petitioner that there is a total due of Rs.11,10,375/- and the loan became irregular to an extent of Rs.2,91,160/- as on 18.01.2016. Subsequently, he paid the entire loan amount on various dates and the entire loan was discharged, absolutely, there is no due to the Bank. Thereafter, the petitioner approached the third respondent requesting him to release the mortgage. But the Bank refused to do so. Hence, he filed the present writ petition.

3.The third respondent/Manager, Indian Overseas Bank filed a counter affidavit disputing the claim made by the petitioner stating that even though the petitioner paid a sum of Rs.11,10,375.32/- on various dates, he has not cleared the entire dues to the respondent Bank with upto date interest and the petitioner is due to pay a sum of Rs.1,12,803.68 as on 27.03.2016 exclusive of future interest from that date and they have also appended the Statement of Accounts along with the counter affidavit. It is further stated that since the petitioner did not clear the entire dues, they are not in a position to discharge the mortgage.

4.Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

5.The learned counsel for the petitioner submitted that as per the guidelines issued by the Reserve Bank of India, the respondent Bank is bound to disclose all the arrears to the borrowers. But the Bank did not disclose the entire arrears on 09.03.2016. But actually the arrears was shown as Rs.11,10,375/- and that amount was already paid by the petitioner. If the third respondent had disclosed the entire outstanding arrears, the petitioner would be in a position to pay the amount and get the mortgage discharged.

6.The learned counsel for the third respondent would submit that as per the RBI guidelines, issued by the Reserve Bank of India, as on date, as per clause 3.2 and 3.4, if any advance becomes NPA, the entire interest accrued and credited to account in the past periods, should be reversed, if the same is not realised. On an account turning NPA, banks should reverse the interest already charged and not collected by debiting Profit and Loss account and stop further application of interest. However, banks may continue to record such accrued interest in a Memorandum account in their books. The learned counsel for the respondent also submitted the Statement of Accounts showing the correct outstanding amount and served the same to the petitioner.

7. In view of the above disputed question of facts, this Court cannot grant the relief sought for by the petitioner. However, liberty is given to the petitioner to challenge the Statement of Accounts, furnished by the respondent Bank showing the outstanding amount, before the appropriate forum.

8. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS)

To

1.The Chief Manager,
Indian Overseas Bank,
Educational Loan Department,
Marketing & Development Department
No.763, Annex Building,
Central Office, 3rd Floor,
Anna Salai, Mount Road, Chennai-02.

2.The Chief Regional Manager,
Indian Overseas Bank,
Regional Office,
Tirunelveli Town-06.

3.The Manager,
Indian Overseas Bank,
High Ground Branch,
Tirunelveli-11.

+1cc to Mr.D.Rajkumar, Advocate in SR.55032
+1cc to Mr.N.Dilipkumar, Advocate in SR.55051

W.P(MD)No.10628 of 2016
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vs
PBK/CK 05.10.2016 ::3P-6C: