



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :27.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .No.1805 of 2017 (PD)

and

C.M.P. (MD) .No.9607 of 2017

1.V.Balamanikandan
2.S.Vinayagam
3.V.Karthick Raja

... Petitioners

Vs.

Union Bank of India,
Palayampatti Branch through its
Branch Manager,
No.5-18-1A, Thirukumaran Nagar,
Madurai Road, Palayampatti,
Arupukottai Taluk,
Virudhunagar District.

... Respondent

Prayer: Petition filed under Article 227 of Constitution of India to strike off the plaint filed in O.S.No.122 of 2017 on the file of the Subordinate Judge, Arupukottai.

For Petitioners

: Mr.S.Rajasekar
for Mr.T.Lajapathi Roy

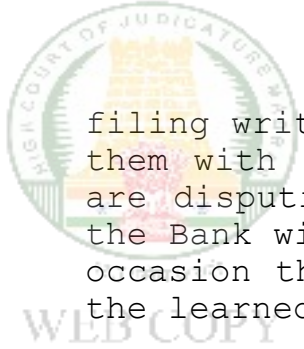
Order

This revision petition has been filed by the revision petitioners to strike off the plaint filed in O.S.No.122 of 2017 on the file of the Subordinate Judge, Arupukottai.

2.The revision petitioners are borrowers from the respondent Bank. The case of the respondent Bank is that the revision petitioners herein took mortgage loan on 09.04.2007, but did not discharge the same. The revision petitioners had committed default and to recover the loan amount, the respondent bank has filed O.S.No.122 of 2017 on the file of the Sub Court, Arupukottai. To strike off the said claim, this revision petition has been filed by the defendants in the said suit.

3.Heard the learned counsel for the revision petitioners.

4.The learned counsel would contend that the revision petitioners have always been ready and willing to settle the loan account. The revision petitioners have given proposal for one time settlement. They have even moved this Court in this regard by



filing writ petition. There is no justification for the Bank to vex them with such a frivolous suit. Only if the revision petitioners are disputing their liability and are unwilling to clear the same, the Bank will have to move the Civil Court. Since there was no such occasion the bank was not justified in filing the suit. Therefore, the learned counsel would pray to strike off the said plaint.

5.I am of the view that this revision petition is without any merit. Admittedly, the revision petitioners are borrowers. The loan account is not yet settled. The Bank is therefore entitled to initiate legal proceedings for recovery of the borrowed amount with interest. This is not only a statutory right but also a common law right. The said right cannot be stifled in exercise of this Court's jurisdiction under Article 227 of the Constitution of India. It is open to the revision petitioners to request the Trial Court to refer the matter for Mediation before the Lok Adalat. For that purpose invoking jurisdiction under Article 227 of the Constitution is not necessary.

6.The Civil Revision Petition stands dismissed. No costs. Consequently connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge, Arupukottai.

+1cc to Mr.T.LAJAPATHI ROY Advocate in SR. No. 84072

TSG

JS/SV.MMS/SAR.1/15.11.2017/2P-3C

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