



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.BASKARAN

W.P.(MD)No.21258 of 2017
and
W.M.P.(MD)No.17536 of 2017

S.Murugan : Petitioner

-Vs-

1.The Branch Manager,
Canara Bank,
Vadamadurai Branch,
R.S.Road,
Vadamadurai - 624 802,
Dindigul District.

2.The General Manager,
Canara Bank R.L.Section,
Near St. Mary's School,
Madurai-625 001.

3.The Assistant General Manager,
Canara Bank R.F.Section,
Regional Office,
Dindigul District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the Respondents from blocking the Petitioner's pension account A/c.No.1058.111.8699 with ATM Card No.3310 5801 2380 on the file of the first Respondent Bank on the guise of recovering the loan amount and direct the Respondents to allow the Petitioner to operate his pension account A/c.No.1058.111.8699 by all modes.

For Petitioner : Mr.A.Kannan

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Heard the Learned Counsel for the Petitioner.



3. According to the Petitioner, he is a former employee of Canara Bank and he had availed the housing loan and pension loan from the first Respondent/Bank. It appears that the Petitioner had mortgaged his house property in favour of the first Respondent/Bank, because of the illness of his son, who has now been affected with kidney failure and Dialysis treatment is being provided to him and further, his eye sight has gone due to multiple ailments. The Petitioner has come forward with the present Writ Petition seeking to restrain the Respondents from blocking his pension account in A/c.No.1058.111.8699 with ATM Card No.3310 5801 2380 on the file of the first Respondent/Bank on the guise of recovering the loan amount and to issue necessary directions to the Respondents to allow him to operate his pension account in A/c.No.1058.111.8699 by all modes.

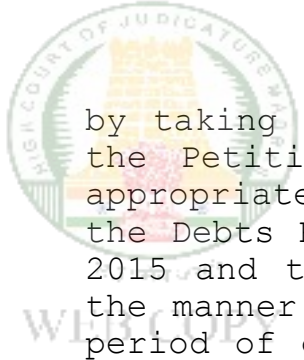
4. It transpires that the first Respondent, according to the Petitioner, had withdrawn his entire pension amount, in lieu of all loan accounts without leaving any amount for his day-to-day expenses. Further, the first Respondent/Bank, when contacted by the Petitioner, had informed him that he has to sign an agreement to renew the loans. Admittedly, before the Debts Recovery Tribunal, Madurai, S.A.No.317 of 2015 filed by the present Writ Petitioner is pending. The Petitioner has taken a plea that there are serious irregularities in rephasing of the interest/overdue/compound interest and also in payment schedules and if these irregularities are cured/settled, then he would have paid the outstanding loan amount. In spite of his earnest and sincere steps, the Respondents are not lending their ears to hear him.

5. In this connection, it is not out of place for this Court to make a pertinent mention that the Petitioner, on earlier occasion, filed W.P.(MD)Nos.20634 of 2015 and 17761 of 2016 before this Court and the Division Bench of this Court on 20.09.2016 at Paragraph Nos.5 and 6 had observed the following;

"5. The learned Counsel for the respondent bank, on instructions, would submit that in respect of the e-auction which was held on 19.09.2016, there were no bidders.

6. In the light of the fact that there were no bidders for earlier two auctions, this Court is of the view that nothing survives for adjudication in these writ petitions. Therefore, both the writ petitions are dismissed. As and when the respondent bank initiates further auction, the petitioner is at liberty to work out his remedy before the competent forum in accordance with law."

6. Considering the fact that the Petitioner has filed the present Writ Petition making an averment that his son is affected with kidney failure and taking Dialysis treatment and further, his son's eye sight has gone due to multiple ailments, etc., this Court, without going into the merits of the subject matter in issue,



by taking a sympathetic and humane view and consideration, directs the Petitioner to take diligent and god speed steps to file an appropriate Interlocutory Application/Miscellaneous Petition before the Debts Recovery Tribunal, Madurai, in the pending S.A.No.317 of 2015 and to seek appropriate remedy in accordance with law and in the manner known to law, for redressal of his grievances, within a period of one week from the date of receipt of copy of this order. In the event of an Interlocutory Application/Miscellaneous Petition being filed by the Petitioner in the pending S.A.No.317 of 2015, the Presiding Officer of the Debts Recovery Tribunal, Madurai, is required to take up the said Interlocutory Application/Miscellaneous Petition without any delay and to advance the hearing of S.A.No.317 of 2015 suo motu and to dispose of the said Interlocutory Application/Miscellaneous Petition, after providing necessary opportunity of hearing to the Bank, within a period of two weeks thereafter. It cannot be gainsaid that the Debts Recovery Tribunal, Madurai, is required to pass a reasoned speaking order both on qualitative and quantitative terms in respect of the Interlocutory Application/Miscellaneous Petition to be filed by the Petitioner, within the time adumbrated by this Court, in S.A.No.317 of 2015. It is open to the Petitioner to raise all Factual and Legal pleas before the Debts Recovery Tribunal and the Tribunal is to advert to the points raised and to answer them at the time of disposal of the Interlocutory Application/Miscellaneous Petition.

7. With the aforesaid observation(s)/direction(s), the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar.

Copy to:

The Presiding Officer,
Debts Recovery Tribunal,
Madurai,

+1CC to Mr.A.Kannan, Advocate, SR.No. 88020

Order made in
W.P.(MD)No.21258 of 2017
Dated: 20.11.2017

SML

AM/SKN RSK/SAR 2/20.11.2017/3P/3C