IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2018

CORAM :

THE HON'BLE MRS.V.K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAISWAMY

W.P. No.23413 of 2018 and
W.M.P.No.27335 of 2018

R.Arumugam .. Petitioner

v.

Housing Development Finance Corporation of India
(HDFC Bank)
No.759, ITC Center, ground Floor
Mount Road
Chennai - 600 002 .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent bank to consider and act upon my representation dated 16.12.2015 and either grant additional loan or restructure the petitioners loan Account No.612281740 within the time frame fixed by this court.

For Petitioner : Mr.K. Seetha Ram

O R D E R
(Order of the Court made by M.DURAISWAMY,J.)

The above writ petition has been filed by the petitioner to issue a Writ of Mandamus, directing the respondent bank to consider and act upon the representation dated 16.12.2015 and consequently grant additional loan or restructure the petitioner's loan account, within a time frame.

2. It is the case of the petitioner that he availed a loan of Rs.3,20,00,000/- (Rupees three crores and twenty lakhs only) from the respondent-bank by mortgaging the property at Guindy.

The petitioner was paying the EMIs regularly until the petitioner was devastated in the November-December 2015 floods, which was declared by the Government as natural disaster. The petitioner's factory was flooded causing heavy loss of plant and machinery to the tune of Rs.7.25,00,000/- (Rupees seven crores and twenty five lakhs only). By letter dated 16.12.2015, the petitioner sought assistance from the respondent-bank by way of additional loan, which was refused by the respondent-bank. Further, according to the petitioner, the respondent-bank started demanding repayments and initiated SARFAESI proceedings. In these circumstances, the petitioner has filed this writ petition.

3. On a perusal of the materials available on record and the submissions made by the learned counsel appearing for the petitioner, it could be seen that the petitioner had availed a loan of Rs.3,20,00,000/- on 01.07.2014 agreeing to repay the loan amount in 180 equated installments of Rs.4,02,775/-. By representation dated 16.12.2015, the petitioner sought for additional loan for the reason that he incurred heavy loss during 2015 floods. The petitioner has also stated that the respondent bank had initiated action under the provisions of the SARFAESI Act.

4. The petitioner cannot demand additional loan as a matter of right from the respondent bank. It is for the bank to take a decision on the request made by the petitioner considering the securities available with the borrower and also his repaying capacity. This court cannot give a direction to the respondent-bank to grant additional loan to the petitioner for any reason whatsoever. The respondent-bank, who are dealing with the public money should take utmost caution while sanctioning the loan.

5. The petitioner has got no legal right to get additional loan from the respondent-bank, in such circumstances, mandamus cannot be issued. The writ petition is devoid of merits and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

Rj

To
Housing Development Finance corporation of India
(HDFC Bank)
No.759, ITC Center, ground Floor

Mount Road, Chennai - 600 002

+1cc to Mr.K.Seetharam, Advocate SR.No.62892

W.P. No.23413 of 2018 and
W.M.P.No.27335 of 2018

GMY(18/09/2018)