

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.2420 of 2013
and M.P.No.1 of 2013

The Senior Manager
Indian Overseas Bank
Kelur Branch
Thiruvannamalai

... Appellant

Vs

R.Muthazhagi

...Respondent

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed by this Court in W.P.No.22698 of 2012 dated 30.11.2012. Writ petition filed under Article 226 of constitution of India, to issue a Writ of Mandamus, to direct the respondent to consider the petitioner education loan application dated 8.11.2011 and the reminder letter dated 23.3.2012 sent by the petitioner father and pass necessary order for sanction of and pay every year fee regularly without fail he entire loan amount of Rs.3 45 000/- (Rupees Three Lakhs Forty Five Thousand only)

For Appellant : Mrs.Ananda Gomathy Sivakumar
For Respondent : No appearance

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

Introductory Note:-

Though the banks would sanction loans and letters of understanding to the billionaire businessmen and affluent, even without sufficient collateral security and would take action for recovery only when the scam spinning out of control, they are adopting a totally different yardstick in the case of middle income group and poor people across India. The banks are not concerned with the directives issued by the Central Government and Reserve Bank of India to help the poor students by giving them education loan. Such instructions are violated by the banks with impunity. The present case is a classic example as to how the Indian Overseas Bank dragged the daughter of a poor farmer

belonging to a most backward community in Tamil Nadu, from pillar to post, without considering her application for an education loan of Rs.3,45,000/- to enable her to pay the college fees and complete the course. The bank by filing the intra court appeal against the order passed by the learned Single Judge on 30.11.2012, succeeded in dragging the matter till the completion of the course so as to make the matter infructuous. The Himalayan arrears in courts and the inability of the system to prioritise the cases also contributed for the delay and denial of justice to the poor student.

The facts:-

2. The respondent joined the first year Engineering course in a private engineering college during the academic year 2011-12. She was not in a position to pay the fees prescribed by the Engineering College. Therefore, she submitted an application for education loan before the Kelur Branch of Indian Overseas Bank.

3. The respondent filed a writ petition in W.P.No.22698 of 2012 directing the appellant to consider her application for education loan. The learned Single Judge issued a Mandamus directing the appellant to reconsider the request of the respondent based on the bona fide certificate issued by the College. The said order is under challenge at the instance of a Public Sector Bank.

Submissions :-

4. The learned counsel for the bank contended that the respondent completed her Engineering Course in 2015 and as such, the prayer in the writ petition has become infructuous.

5. None appeared for the respondent.

Discussion :-

6. The respondent filed the writ petition for a direction to the Bank to consider her application for loan. The learned Single Judge taking into account the bona fide certificate produced by the respondent, directed the Bank to consider the case for education loan emergently. There was no positive direction given by the learned Single Judge for sanctioning the loan.

7. The application for loan was given on 08 November, 2011 and it was followed by a reminder dated 23 March, 2012. The appellant being a Public Sector undertaking was expected to consider the application for loan in accordance with the guidelines issued by the Reserve Bank of India. The appellant without even making an attempt to consider the request from a poor student, pursuant to the order passed by the writ court, rushed to this Court by way of this intra court appeal with a view to see that the student completes the course in the mean time.

8. The banks have no case that the education loan defaulters have contributed for the accumulation of the bad loans. We are informed that the cumulative total of more than 50 companies or groups each with over Rs.250 crores of loan arrears, classified as wilful default, works out to about Rs.48,000 crores.

9. The banks are reluctant to sanction education loan in the absence of sufficient collateral security. Education is not considered as an "Asset" by the banks. The country would be denied of the service of scientists, doctors, engineers and other professionals, in case financial assistance is not given to the deserving students to come up in life. The educated youth are an asset to the nation and their talents can be utilized for the growth of the country. The banks must realize this fundamental fact. The professional degree obtained by the student must be considered as an asset, like any other secured asset by the banks.

10. This writ appeal is nothing but an abuse of process of Court. The Officer of a Public Sector Bank wasted the public money and valuable time of this court by filing an intra court appeal against a decision which would not cause any prejudice to the Bank. Even if the money spent for this unwanted litigation was given as education loan, it would have helped the respondent. The appellant acted as if the public sector banks have no social commitment. We are therefore, of the view that the appeal deserves to be dismissed with costs.

11. The writ appeal is dismissed with costs. The appellant shall pay a sum of Rs.25,000/- as costs to the respondent. The cost shall be paid within a period of two weeks from the date of receipt of a copy of this judgment. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

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Sub Assistant Registrar

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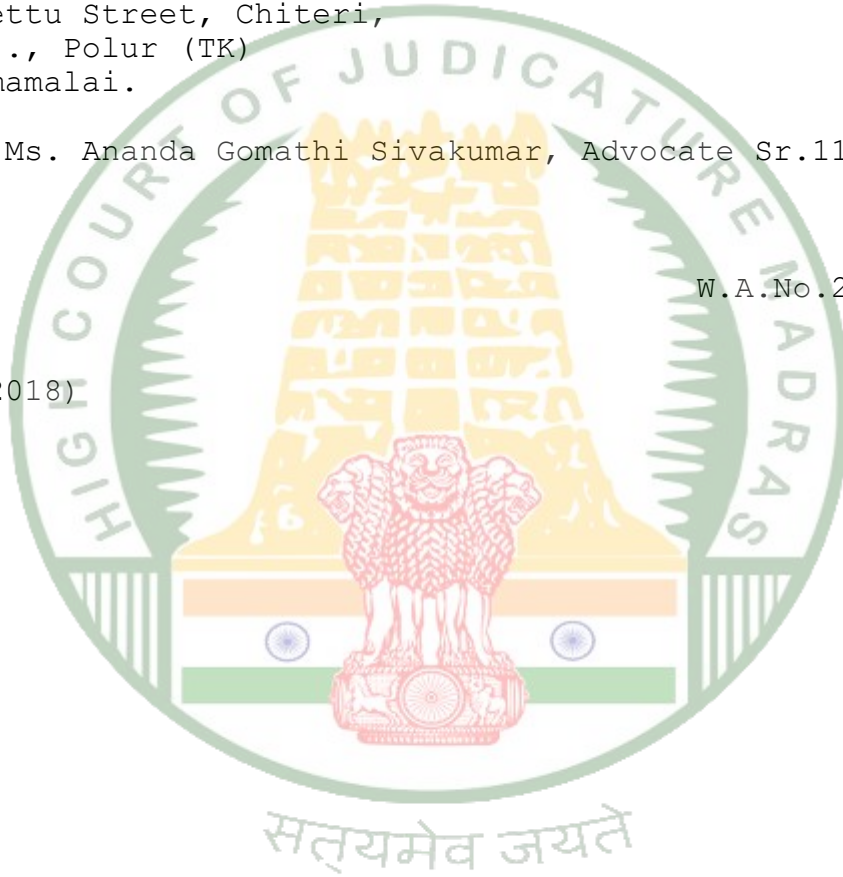
1. The Senior Manager
Indian Overseas Bank
Kelur Branch
Thiruvannamalai.

2. R.Muthazhagi, D/o. Ramasamy,
No.574, Mettu Street, Chiteri,
Kelur (PO)., Polur (TK)
Tiruvannamalai.

+ 1 cc to Ms. Ananda Gomathi Sivakumar, Advocate Sr.11463

W.A.No.2420 of 2013

GJII (co)
EU (14/03/2018)



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