BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.12.2018
CORAM:
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.24192 of 2018

Muthukumar ... Petitioner

Vs.

The Manager,
Dindigul District Central Co-operative Bank Ltd.,
Nagal Nagar Branch,
Dindigul. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to disburse the loan amount of Rs.10,00,000/- as per the ''Memorandum of Deposit'' (MOD), dated 30.01.2018, to the petitioner.

For Petitioner : Mr.V.Karuna
For Respondent : Mr.S.Shanmugaraja Sethupathy

ORDER

Mr.S.Shanmugaraja Sethupathy, learned Standing Counsel takes notice for the respondent.

2.By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.This writ petition has been filed seeking a Writ of Mandamus, to direct the respondent herein to disburse the loan amount of Rs.10,00,000/- as per the ''Memorandum of Deposit'' (MOD), dated 30.01.2018, to the petitioner.

4.The petitioner had borrowed loan from many other persons and he was unable to repay the same. In order to repay the debt along with interest to them, he approached the respondent Bank for a loan of Rs.10,00,000/-. Since the respondent Bank was ready to offer loan only through mortgage loan, with no other option, the petitioner was ready to mortgage his residential house. The petitioner filled up the loan application and submitted the same to the respondent. The respondent explained conditions for mortgage loan. After satisfying the same, the respondent got signatures in necessary papers. Thereafter, the respondent directed the petitioner to comply with some conditions. After satisfying all the conditions, the respondent promised the petitioner to register ''Memorandum of Deposit'' (MOD) before the concerned Sub-Registrar and also promised that after getting MOD, loan amount will be disbursed. Based on the said promise, the respondent issued permission letter for loan amount, vide Proceedings

No.91/11723/LIML/2018, dated 30.01.2018. Based on the said letter, the petitioner approached the Sub-Registrar, Dindigul, and got the property in Door No.8 (New No.48/C), Block No.47, East Gopal Nagar, YMR Patti, Siluvathur Road, Dindigul, registered as MOD by the registered MOD on 30.01.2018 in Document No.282. Immediately, after the registration, the petitioner got the MOD and handed over the same to the respondent. The respondent assured that loan amount would be disbursed within one month. Since no amount was deposited in the petitioner's bank account, the petitioner enquired it to the respondent and the respondent, in turn, reassured that the loan was under process. But, even after lapse of more than 7 months, no amount was disbursed from the respondent. Hence, the petitioner sent Advocate notice to the Bank for dispensing of the loan amount on 31.07.2018. After receiving the same, the respondent issued reply notice on 27.08.2018, stating that the petitioner was in default of loan totally to the tune of Rs.23,57,038/- as Consumer Loan, Gold Loan, Housing Loan and Small Business Loan and hence, the petitioner's CIBIL score was very low. In their reply notice, they had stated they have already informed the petitioner regarding the rejection of loan and without their permission, the petitioner registered MOD. Even after the issuance of permission letter dated 30.01.2018, the respondent Bank issued reply notice stating false statement alleging that the petitioner registered MOD without their knowledge. All the averments containing in the reply notice are false and imaginary and fabricated for escaping from the clutches of law. The respondent ought to have disbursed the loan or at least they have to give damage for the expenses incurred and mental agony suffered by the petitioner. The petitioner has spent more than Rs.25,000/- to obtain the loan. Moreover, as per the MOD, Encumbrance Certificate also stands in the name of the respondent Bank. Hence, the petitioner has approached this Court for the relief stated supra.

5.From the reply notice sent by the respondent Bank, dated 27.08.2018, it could be seen that the petitioner on his own risk has deposited the title deeds and also made registration of the same before the Sub-Registrar without the permission of the special officers. The respondent has further stated that after verifying the CIBIL Score, the loan amount will be disbursed to the persons approached for loan. The petitioner's CIBIL Score is very low and he has to pay a sum of Rs.23,57,038/- towards Consumer loan, Gold Loan, Housing Loan and Small Business Loan and the same are pending for a long time and without even stating the same, the petitioner has suppressed the same and registered the MOD and trying to pressurise the respondent to disburse the loan, which cannot be considered. The petitioner's CIBIL Score is 300, which is classified as very High risk and he promised to repay the loan borrowed by him, but till date, he has not chosen to pay the same and also threatened the respondent officials to disburse the loan on 07.07.2018. Therefore, the respondent Bank rejected the application of the petitioner and directed the petitioner to take back the original documents and cancel the MOD.

6.It could be seen from the documents that the petitioner is in arrears of loan amount to the tune of Rs.23,57,038/- and also his CIBIL Score is very low and accordingly, the respondent will not be in a position to disburse the loan amount. Offering of loan by the Bank to customer is an individual contract and independent to them through Banking Institution's Rules and Regulations. Under Article 226 of the Constitution of India, this Court cannot pressurise anybody to disburse loan in respect of there being rules and guidelines issued by the Reserve Bank of India. There are catena of judgments by this Court as well as by the Hon'ble Apex Court stating that the High Courts in the ordinary course of proceedings, cannot interfere in such kind of petitions and not to entertain such kind of writ petitions under Article 226 of the Constitution of India. Hence, this Court is not inclined to interfere with the communication issued by the respondent Bank and the petitioner's plea cannot be entertained and the writ petition fails and the same is liable to dismissed. Accordingly, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Manager,
Dindigul District Central Co-operative Bank Ltd.,
Nagal Nagar Branch,
Dindigul.

+1cc to Mr.V.Karuna, Advocate Sr.No.99128
+1cc to Mr.S.Shanmugaraja Sethupathy, Advocate Sr.No.99114

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KM/SV/SAR1/26.12.2018/3P/4C

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