



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.10.2018
CORAM

THE HONOURABLE Mr. JUSTICE V. PARTHIBAN

W.P (MD) No.21092 of 2018 and

W.M.P (MD) No.18888 of 2018

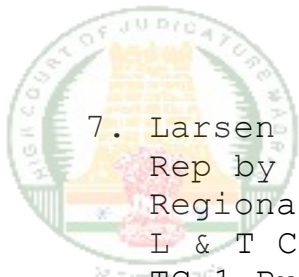
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Deepa

... Petitioner

Vs

1. The Union of India,
Rep by its Secretary to Government,
Ministry of Finance,
Jeevan Deep Building,
Parliament Street, New Delhi -1.
2. The Reserve Bank of India,
Rep by its Assistant General Manager,
Main Building,
Post Box No.901,
Sahid Bhagatsingh Road,
Mumbai 400 001.
3. The Reserve Bank of India,
Rep by its General Manager,
No.16, Rajaji Salai, Chennai.
4. Larsen & Turbo Ltd.,
Rep by its Chief Executive Director,
cum Managing Director,
Registered Office at
L & T House,
Ballard Estate,
Post Box No.278,
Mumbai 400 001.
5. Larsen & Turbo Ltd.,
Rep by its Managing Director,
Corporate Office at
L & T House,
Brindhavan Building,
Plot No.177, Vidyanagari Marg,
CST Road, Kalina Santacruz,
Mumbai 400 098.
6. Larsen & Turbo Ltd.,
Rep by its Authorized Representative,
Amit Sankar Bacghi,
L & T Finance Ltd.,
2/1, Russel Street,
4th Floor, Kankaria Centre, Kolkata 700 071.



7. Larsen & Turbo Ltd.,
Rep by its Managing Director,
Regional Office at
L & T Construction Campus,
TC 1 Building,
2nd Floor, Mount Ponnthamali Road,
Manappakkam,
P.B.979, Chennai 600 089.

8. Larsen & Turbo Ltd.,
Rep by its Managaing Director,
Regional Office at
L & T Finance Ltd.,
No.10, Club House Road,
Anna Salai,
Chennai 600 002.

9. Larsen & Turbo Ltd.,
Rep by its Branch Manager,
No.489, 1st Floor,
Vinayaga Nagar Colony,
K.K.Nagar,
Madurai 20.

10. The Commissioner of Police,
Madurai City,
Madurai.

11. The Inspector of Police,
Anna Nagar Police Station,
Anna Nagar,
Madurai City.

12. The Superintendent of Police,
Dharmapuri District.
Dharmapuri.

13. The Inspector of Police,
Hosur Town Police Station,
Hosur,
Dharmapuri District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 to 3 herein to regulate the rate of interest and penal interest being charged by the respondents 4 to 9 herein as exorbitantly charged at the rate of penal interest at 36% in violation of the RBI guidelines and consequently, forbear them from taking any further action in respect of the hypothecation loan agreement No.0003/TLA/21939, dated 29.06.2007 in so far of the vehicle L & T Case 770 Loader Backhoe bearing its Registration



No.TN 59 AE 9230, entered between the petitioner and nine of the above finance company in the light of the petitioner's representation dated 05.10.2018.

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For Petitioner : Mr.R.Thangapandian
For Respondents : Mr.V.Muraliganesh for R1
: Mr.M.Jayakumar,
Additional Government Pleader for R2

O R D E R

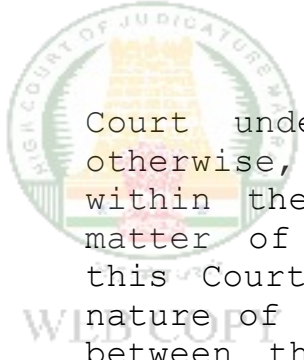
The petitioner has come up with this writ petition seeking a direction to the respondents 1 to 3 herein to regulate the rate of interest and penal interest being charged by the respondents 4 to 9 herein as exorbitantly charged at the rate of penal interest at 36% in violation of the RBI guidelines and consequently, forbear them from taking all further action in respect of the hypothecation loan agreement No.0003/TLA/21939, dated 29.06.2007 in so far of the vehicle L & T Case 770 Loader Backhoe bearing its Registration No.TN 59 AE 9230, entered between the petitioner and the finance company in the light of the petitioner's representation dated 05.10.2018.

2. The case of the petitioner is as follows:-

(i) The petitioner had borrowed a sum of Rs.18,00,000/- from the ninth respondent Finance Company for purchase of L & T Case 770 Loader Backhoe. According to the petitioner, he paid a margin amount of Rs.2,50,000/- at the time of availing financial assistance. The vehicle bearing Registration No.TN 59 AE 9230, has been pledged with the ninth respondent.

(ii) According to the petitioner, he had paid monthly instalment of Rs.58,430/- for few months, but, because the petitioner was facing some difficulties, the EMI could not be paid in time and there was a default in payment. In view of the default committed by the petitioner, the Finance Company charged penal interest at the rate of 36% and seized the vehicle on 21.07.2009 and sold the vehicle for some amount. According to the petitioner, the vehicle has been sold for a lesser amount than the actual value and thereafter, the finance company has been pressurizing the petitioner to make good the amount borrowed. The petitioner appears to have been aggrieved by the action of the ninth respondent Company and therefore, he is before this Court seeking for a writ of Mandamus with the prayer as stated supra.

3. First of all, this Court is unable to appreciate as to how the writ is maintainable against the private financial institution, admittedly the ninth respondent is a private company and the same is not amenable to the writ jurisdiction of this



Court under Article 226 of the Constitution of India. Even otherwise, the issue as raised in the writ petition falls squarely within the realm of civil dispute which cannot be the subject matter of adjudication under the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. The nature of dispute would involve adjudication of factual claims as between the petitioner and the private financial company which cannot be done before this Court under in its writ jurisdiction. It appears that the petitioner has made the Union of India as a party before this Court to make it appear the writ is maintainable. It is a clear ploy adopted by the petitioner to bring the private dispute within the ambit of writ jurisdiction exercised by this Court.

4. For the above said reasons, this Court is of the view that the writ is not maintainable in view of the private dispute between the petitioner and the ninth respondent Finance Company.

5. Hence, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

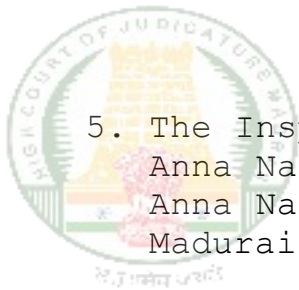
Assistant Registrar(CO)

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Sub Assistant Registrar(CS-IV)

To

1. The Secretary to Government,
Ministry of Finance,
Jeevan Deep Building,
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New Delhi -1.
2. The Assistant General Manager,
The Reserve Bank of India,
Main Building,
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3. The General Manager,
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4. The Commissioner of Police,
Madurai City, Madurai.



5. The Inspector of Police,
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Anna Nagar,
Madurai City.

6. The Superintendent of Police,
Dharmapuri District.
Dharmapuri.

7. The Inspector of Police,
Hosur Town Police Station,
Hosur,
Dharmapuri District.

+1cc to Mr.R.Thangapandian, Advocate Sr.No.89393

+1cc to Mr.V.Muraliganesh, Advocate Sr.No.89849

+1cc to Spl.Government Pleader Sr.No.89711

GSK/SKN

VB/SKN/SAR4/14.11.2018/5P/11C

W.P (MD) No.21092 of 2018
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