THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Ms. JUSTICE J. UMA DEVI

Writ Appeal No.765 of 2018

Judgment: **(Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)**

Heard Sri Vedula Srinivas, learned counsel for the appellant, and Sri B.S. Prasad, learned Standing Counsel for the respondent-bank, and, with their consent, this appeal is disposed of at the stage of admission.

The appellant herein is said to have suffered a decree, in a suit instituted against them by the respondent-bank before the Debts Recovery Tribunal, for a sum in excess of Rs. 12.00 crores. The respondent-bank however, for reasons which are not discernible, chose not to have the decree executed and, instead, offered a one time settlement for less than 1/3rd of the decretal amount. The appellant-writ petitioner was called upon to pay only a sum of Rs.3,88,46,331/- by the respondent-bank, in its letter dated 13.9.2017, as against the decretal amount exceeding Rs.12.00 crores. In terms of the said letter, the appellant-writ petitioner was required to deposit 5% as on 31.3.2017, 20% as upfront money, and the balance amount to be paid within six months from the date of sanction of the one time settlement together with interest at the Marginal Cost of Lending Rate (MCLR) plus 2%, failing which the OTS sanctioned amount would be rendered infructuous. The appellant-writ petitioner claims to have paid Rs.1,53,54,120/- by 30.4.2018. While the entire one time settlement amount was required to be repaid by 30.4.2018, a sum of around Rs.2.50 crores (being the balance payable under the OTS Scheme plus interest) was said to be due and payable as on that date. The appellant-writ petitioner sought extension for repayment by a period of 90 days. On the ground that their request was rejected by the bank, by its letter dated 5.5.2018, the appellant-writ petitioner invoked the jurisdiction of this Court. The ground of rejection, as is evident from the letter dated

5.5.2018, is that the one time settlement scheme is non-discretionary, and does not confer any discretion on the bank to extend the time for repayment of the OTS amount.

Aggrieved thereby, the appellant-writ petitioner invoked the jurisdiction of this Court filing W.P. No. 17395 of 2018. A learned Single Judge of this Court, in his order dated 17.5.2018, observed that no provision of law, which enabled the Court to indulge and direct the respondent-bank to extend the time, was brought to the notice of the Court; and, in matters relating to the discretion of the concerned authorities, the Court cannot show indulgence, and force them, unless such refusal to exercise discretion results in manifest injustice.

While fairly stating that the order of the learned Single Judge, in refusing to grant further time, cannot be held to be illegal, Sri Vedula Srinivas, learned counsel for the appellant, would submit that, since 45 days have already expired from the date on which the entire amount was required to be paid, it would suffice if the respondent-bank were directed to permit the appellant to repay the balance amount due, of around Rs.2.50 crores, within 45 days from today.

As noted hereinabove, as against the decree of the Debt Recovery Tribunal for a sum in excess of Rs.12.00 crores, the respondent-bank has been indulgent in extending to the appellant-writ petitioner the benefit, of the one time settlement scheme, for merely Rs.3,88,46,331/- i.e., a concession of more than 2/3rd of the decretal amount was extended by them to the appellant under the OTS scheme. The appellant was called upon to pay less than 1/3rd of the decretal amount. Even this amount, which was required to be paid by 30.4.2018, has not been paid. In fact, more than 50% of the balance amount due, under the one time settlement, is still due and payable. The learned Single Judge has, in our opinion rightly, refused to show any indulgence to the appellant-writ petitioner.

This Court, in the exercise of its jurisdiction under Article 226 of the Constitution of India, would not regulate the manner in which the bank should function or extend time for repayment of the amount payable, under the one time settlement scheme, by the debtors of the bank. Whether or not time for repayment should be extended are all matters for the respondent-bank to decide in terms of the one time settlement scheme. The respondent-bank cannot be said to have acted illegally in refusing to show any indulgence to the appellant-writ petitioner in as much as the appellant-writ petitioner has not even paid 50%, of the amount payable under the one time settlement scheme, before the last date of payment i.e 30.04.2018.

Sri Vedula Srinivas, learned counsel for the appellant, would seek liberty for the appellant to approach the respondent-bank. While we see no reason to interfere with the order under appeal, it is made clear that this order shall not disable the appellant from approaching the respondent-bank seeking extension of time to repay the amount due under the one time settlement.

The Writ Appeal, however, fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

(RAMESH RANGANATHAN, ACJ)

(J. UMA DEVI, J)

12th June, 2018

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