

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.37949 of 2017

ORDER: (Per the Hon'ble Sri Ramesh Ranganathan)

Heard Sri R. Siva Sai Swaroop, learned counsel for the petitioner,
and Sri B.S. Prasad, learned Standing Counsel for the respondent-Bank.

The relief sought for in this writ petition is for a *mandamus* to declare the action of the respondent-Bank in not considering the petitioner's representation dated 09.05.2017 in terms of the Reserve Bank of India Guidelines and Circulars, as regards the One Time Settlement, as illegal, arbitrary, and in violation of principles of natural justice.

While the petitioner claims to have submitted a representation on 09.05.2017, he himself states in the Writ affidavit that no acknowledgment was given by the Bank regarding receipt of the said representation. In the counter-affidavit, filed by the Assistant General Manager of the respondent Bank, the petitioner's claim of having submitted a representation is denied, and it is stated that neither was any such representation received nor had the petitioner ever visited the Branch or spoken to any officials of the Bank at any point of time. It is stated, in the counter-affidavit, that the petitioner's claim of suffering a loss, and the contention that the Bank is therefore obliged to consider his One Time Settlement application, is without merit; the respondent Bank had filed O.A.No.86 of 2002 before the Debt Recovery Tribunal, Visakhapatnam, and R.P.No.31 of 2004 under the provisions of the Recovery of Debs and Bankruptcy Act, 1993; the O.A. was disposed of on 25.03.2004; the petitioner is liable to pay a sum of Rs.3,98,47,721.66 as on 31.12.2017, plus interest; since revenue recovery proceedings were

initiated for recovery of the said amount, the petitioner has belatedly invoked the jurisdiction of this Court; and no right is conferred on the petitioner to claim that his application, for a One Time Settlement, should be favourably considered.

The petitioner claims to have submitted an application, seeking extension of the benefit of a One Time Settlement, on 09.05.2017 more than 13 years after the O.A. was allowed. It is evident, therefore, that the petitioner's claim of having submitted a representation is merely a ruse to avoid further action being taken in the revenue recovery proceedings initiated against him.

A writ of mandamus is issued only when a statutory obligation is cast on the respondent-Bank, and a statutory right of the petitioner has been violated by the respondent-Bank's action or inaction. Since receipt of the petitioner's application, for being extended the benefit of a One Time Settlement, is itself denied by the respondent-Bank, the question of their considering the petitioner's application, for being extended the benefit of a One Time Settlement, does not arise.

Viewed from any angle the writ petition, as filed, is wholly misconceived and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

Date: 14.08.2018

(KONGARA VIJAYA LAKSHMI, J)

va