



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2019

WEB COPY

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.33667 of 2018

S.Muthusamy

.. Petitioner

..Vs..

1.The Branch Manager,
Mylaudy Branch,
State Bank of India,
Kanyakumari District - 629 403.

2.The Branch Manager,
Coimbatore Branch,
State Bank of India,
Post Box No.3860,
State Bank Road,
Coimbatore - 641 018.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of mandamus directing the 1st respondent to unlock the petitioner's pension account in Account No.10869119731 maintained in the 2nd respondent Branch, State Bank of India.

For Petitioner : Mr.S.Arunachalam
for M/s.S.Arunachalam Associates

For Respondents: Mr.Ilayaraj Kumar
for M/s.Ramalingam Associates
(R1 & R2)

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The above Writ Petition has been filed by the petitioner to issue a Writ of mandamus directing the 1st respondent to unlock the petitioner's pension account maintained with the 2nd respondent Bank.



2.It is the case of the petitioner that the petitioner's daughter Manjula availed educational loan with the 1st respondent -Bank on 26.08.2011 for studying BDS course. The petitioner mortgaged his immovable properties with the 1st respondent - Bank as security for due repayment of the loan availed by his daughter. The petitioner's daughter completed the BDS course in July 2014 and also got married on 08.06.2014. However, neither the petitioner nor his daughter had repaid the loan availed from the 1st respondent. The 1st respondent issued a notice dated 01.10.2018 to the petitioner under Section 13(2) of the SARFAESI Act claiming a total sum of Rs.14,26,805/-. The petitioner admitted that he had mortgaged the immovable properties by way of Deposit of Title Deeds for the due repayment of the loan. Now, the petitioner contended that his 1st wife's son filed a Civil Suit for partition and got a decree on 21.03.2013.

3.The learned counsel appearing for the petitioner submitted that in view of the decree obtained by the petitioner's 1st wife's son, the respondent - Bank cannot proceed against the immovable properties.

4.The conduct of the petitioner would only establish that he is not prepared to repay the loan availed from the respondent - Bank. Since the respondent - Bank is dealing with the public money, the loan advanced to the petitioner's daughter cannot be allowed to go unrecovered. The contention raised by the petitioner for unlocking his pension account cannot be accepted. The 1st respondent - Bank has rightly locked the petitioner's pension account maintained with the 2nd respondent.

5.In these circumstances, we are not inclined to grant the relief sought for in the Writ Petition. Accordingly, the Writ Petition is dismissed. No costs.
va

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Branch Manager,
Mylaudy Branch,
State Bank of India,
Kanyakumari District - 629 403.



2.The Branch Manager,
Coimbatore Branch,
State Bank of India,
Post Box No.3860,
State Bank Road,
Coimbatore - 641 018.

+1cc to M/s.S.Arunachalam Associates, Advocates, vide SR.No.50716
+2cc to M/s.Ramalingam & Associates, Advocates, vide SR.No.50872

W.P.No.33667 of 2018

Kak(05/08/2019)