BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **17.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.P(MD)No.21904 of 2019

and

W.M.P.(MD)No.18663 of 2019

K.Manikandan .. Petitioner

Vs.

1.The Zonal Officer,
Indian Overseas Bank,
Regional Office, Trichy.

2.The Branch Manager,
Indian Overseas Bank,
Manapparai, Tiruchirappalli. .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining the impugned rejection order dated 27.09.2019 passed by the second respondent and quash the same and consequently direct the respondents to permit me to remit only the principal loan amount of a sum of Rs.12,50,000/- in my loan account No.9509000014 by way of one time settlement.

For Petitioner : Mr.M.Ramu

ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.M.Ramu, learned counsel appearing for the petitioner.

2. The petitioner availed educational loan for pursuing MBA course in abroad. He is now before this Court stating that action should not be taken under SARFAESI Act and the residential house property, which was given as security, should not be proceeded with.

3. The representation given by the petitioner has been rejected by the impugned communication dated 27.09.2019. The respondent Bank States that the petitioner is in the habit of making false assurances and availing time for more than five years.

4. From the facts placed before us, we find that the petitioner is a defaulter. However, the present writ petition is premature because no measure has been initiated so far under the provisions of the SARFAESI Act as according to the petitioner, only the impugned communication has been sent to him and therefore we cannot entertain this writ petition. However, it is open to the petitioner to make a genuine request to the respondent Bank and should not make any false assurances. While making genuine request for one time settlement, substantial payment should be made. Unless that is done, the respondent Bank cannot process the request for one time settlement.

5. With this observation, this writ petition is disposed of. In the event action is initiated under the provisions of the SARFAESI Act, it is well open to the petitioner to avail the remedy available to him before the Debt Recovery Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

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Sub Assistant Registrar(CS)

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+1 CC to M/s.M.RAMU, Advocate (SR-92593[F] dated 17/10/2019)

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