IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.4225 of 2020
(Heard Through VC)

D.Irudayaraj ...Petitioner

Vs.

1. The Banking Ombudsman,
Reserve Bank of India,
Fort St.Galcious,
Rajaji Salai, Chennai- 600 009.

2. The Branch Manager,
Dewan Housing Finance Corporation Limited(DHFL),
Shop No.14, 1st Floor, S.No.2632,
Tcovi Puram Main Road,
Thoothukudi - 628 008.

3. DHFL Pramerica Life Insurance Company Ltd.,
4th Floor, Building No.9, Tower-B, Cyber City,
DLF Phase-III, Gurugaon - 122 002,
Haryana ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to instruct the second respondent to disburse the balance loan amount of Rs.19,18,000/- (Rupees Nineteen Lakhs Eighteen Thousand Only) from out of the total sanctioned amount of Rs.29,49,167/-(Rupees Twenty Nine Lakhs Forty Nine Thousand one Hundred and Sixty Seven only) and restructure the EMIs accordingly, by considering the petitioner's representation dated 25.11.2019 within a time framed to be fixed by this Court.

For Petitioner	:	Mr.J.Stalin
For Respondent-	:	Mr.C.Mohan for M/s.King and Patridge
For Respondent-2	:	Mr.S.S.Rajesh
For Respondent-3	:	Not Ready in notice.

ORDER

The Writ Petition is filed by the petitioner seeking a mandamus to direct the first respondent, who is the Banking Ombudsman, Reserve Bank of India, to instruct the second respondent to disburse the balance loan amount of Rs.19,18,000/- (Rupees Nineteen Lakhs Eighteen Thousand Only) from out of the total sanctioned amount of Rs.29,49,167/-(Rupees Twenty Nine Lakhs Forty Nine Thousand one Hundred and Sixty Seven only) and restructure the EMIs accordingly, by considering the petitioner's representation dated 25.11.2019.

2. The first respondent has filed a Memo dated 21.09.2020, wherein, it is stated that the that vide the Communication dated 03.03.2020 in NBFCO(Che)/01.01.001/4323/2019-2020 the petitioner was intimated that the complaint before the Banking Ombudsman is not maintainable, in view of Clause 3.5 of the Ombudsman Scheme for NBFCs, 2018. It is also further stated that in view of the above, the complaint has been forwarded to the National Housing Bank, which is the Regulatory Authority. Hence, it is open to the petitioner to pursue his claim before the National Housing Bank.

3. The second respondent, against whom, the relief has been sought for, has also filed a memo stating that the National Company Law Tribunal, Mumbai, in its order dated 03.12.2019 had admitted the application filed by the Reserve Bank of India and pronounced that "Moratorium" as defined under Section 14 of the Insolvency Code shall commence with effect from the date of application (i.e) 29.11.2019. It is also stated that in view of the Covid Pandemic situation, it has been extended.

4. It is also submitted that an IRP (Insolvency Resolution Professional) was also appointed and therefore, it would be appropriate for the petitioner to go before the National Housing Bank, as directed by the Banking Ombudsman, Reserve Bank of India.

5. In the light of the above, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Banking Ombudsman,
   Reserve Bank of India,
   Fort St.Galcious,
   Rajaji Salai, Chennai- 600 009.

2. The Branch Manager,
   Dewan Housing Finance Corporation Limited(DHFL),
   Shop No.14, 1st Floor, S.No.2632,
   Tcovi Puram Main Road,
   Thoothukudi - 628 008.

3. DHFL Pramerica Life Insurance Company Ltd.,
   4th Floor, Building No.9, Tower-B, Cyber City,
   DLF Phase-III, Gurugaon - 122 002,
   Haryana

+1cc to Mr.King & Partridge, Advocates, S.R.No.34548

W.P.No.4225 of 2020

AD(CO)
KKV/09/12/2020