IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.No. 10214 of 2020
and W.M.P.Nos.12420 to 12422 and 12423 of 2020

Vijayalakshmi ..Petitioner

Vs

1. The Governor,
   Reserve Bank of India,
   Central Office Building,
   18th Floor, Shahid Bhagat Singh Road,
   Mumbai - 400 001.

2. The Authorised Officer,
   HDFC Limited, ITC Centre (II Floor),
   760, Anna Salai, Chennai - 2. ..Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the first respondent to enforce the regulatory package as contained in Circular dated 27.03.2020 issued by the first respondent against the second respondent with regard to the petitioner's Home Loan Account No.609313586 and Loan Account No.615168059 consequently restrain the second respondent from initiating any coercive action including but not limited to the measures specified in the second respondent's demand notice dated 02.06.2020 bearing Ref. (Suit No.96120) issued under sub-section 2 of Section 13 of the SARFAESI Act, 2002 on the basis of the allegation that the petitioner's loan accounts bearing No.615168059 and 609313586 have been declared as Non Performing Assets.

For Petitioner .. Mr.B.Dhanraj

For Respondents .. Mr.C.Mohan
for M/s.King and Patridge
for R1
Mr.K.J.Parthasarathy for R2

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

Seeking a direction to the first respondent to enforce the regulatory package as contained in Circular dated 27.03.2020 issued by the first respondent against the second respondent with regard to the petitioner's Home Loan Account No.609313586 and Loan Account No.615168058 and to restrain the second respondent from initiating any coercive action including but not limited to the measures specified in the second respondent's demand notice dated 02.06.2020 bearing Ref. (Suit No.96120) issued under sub-section 2 of Section 13 of the SARFAESI Act, 2002 on the basis of the allegation that the petitioner's loan accounts bearing No.615168059 and 609313586 have been declared as Non Performing Assets, the present writ petition has been filed.

2. Heard the learned counsel appearing for the parties.

3. A counter affidavit has been filed by the second respondent and in para 8, it has been stated as under:

> 8. I deny all the allegations in para 17 & 18 of the affidavit and state that the petitioner never approached to pay the entire defaulted instalments. I state that the defaulted EMIs as on 29.02.2020 works out to Rs.21,95,682/- as detailed hereunder:
>
> Loan Account No.615168059 - Rs.683128 + Rs.62130 + Rs.3730 = Rs.7,48,988
>
> Loan Account No.6099313586 - Rs.1319056 + Rs.119960 + Rs.7678 = Rs.14,46,694/-
>
> I state that in addition to the aforesaid sum of Rs.21,95,682/- the EMI for the month of March 2020 to July 2020 i.e. further 5 months EMI had also fallen due. The outstanding to regularise the loan account in July 2020 was Rs.24,12,846/- and Rs.12,48,613/- respectively which the petitioner was not willing to remit and was not willing to regularise the loan account which was the reason this respondent could not receive the part payments. I state that the petitioner is always at liberty to remit the sum of Rs.24,12,846/- and Rs.12,48,613/- and August 2020 EMI of Rs.1,64,882/- and Rs.85,390/- and regularise the loan account. In any event the petitioner would not fall within the ambit of the regulatory package and no violation whatsoever could be attributed to this respondent.

4.Learned counsel appearing for the petitioner submitted that the petitioner would deposit a sum of Rs.30,03,276/- by way of Demand Draft for both the accounts. The remaining amount, as stated in the aforesaid paragraph 8, would be paid within a period of four weeks from the date of receipt of a copy of this order.

5.Learned counsel appearing for the second respondent has also agreed for the aforesaid payment subject to the condition that the petitioner deposits Rs.30,03,276/- within a period of three days from the date of receipt of a copy of this order and the remaining amount within a further period of four weeks thereafter.

6.In view of the above, the contentious issues raised are not gone into. The petitioner is directed to deposit a sum of Rs.30,03,276/- within a period of three days from the date of receipt of a copy of this order and the remaining amount within a further period of four weeks thereafter. We make it clear that the petitioner will have to continue to pay the instalments in future.

7.On such compliance, as aforesaid, the second respondent shall regularise the loan account of the petitioner and her husband. It is well open to the second respondent to consider the moratorium also.

8.With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1.The Governor,
Reserve Bank of India,
Central Office Building,
18th Floor, Shahid Bhagat Singh Road,
Mumbai - 400 001.

2.The Authorised Officer,
HDFC Limited, ITC Centre (II Floor),
760, Anna Salai, Chennai - 2.

W.P.No.10214 of 2020

SKS(CO)
KKV/25/08/2020