BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2020

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THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

W.P.(MD) No.18937 of 2015

N.Selvarani ... Petitioner

Vs.

1.The Regional Manager,
Union Bank of India,
Regional Office,
No.72, P.T.Rajan Road,
Madurai-625 002.

2.The Manager,
Union Bank of India,
Kanyakumari Road,
Sayalkudi,
Ramanthapuram
District. ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to release the documents relating to the petitioner.

For Petitioner : Mr.K.Neelamegam

For Respondents : Mr.N.Dilipkumar

ORDER

This writ petition has been filed to direct the respondents to release the documents relating to the petitioner.

2.The petitioner admits that she has borrowed certain amount from the first respondent Bank. It is admitted that a sum of Rs.3,86,000/- was advanced to the petitioner by mortgaging properties in S.Nos.247/3, 267/3, 267/5 and 267/7B situated at Narayanapuram Village, Kamuthi Taluk, Ramanthapuram District.

3.Stating that the petitioner has repaid the loan in full with interest, the properties which was mortgaged, should be discharged and the documents submitted by the petitioner should be released and handed over to the petitioner.

4.A counter affidavit filed by the respondent. In the counter affidavit, it is *inter alia* pointed out that a sum of

Rs.4,02,801.30/- is due as on 30.06.2013 and the amount as on date is still more with interest for more than six years. It is the case of the respondent Bank that the petitioner has come forward with false figures and statements contrary to the records. The learned counsel for the respondent Bank has also produced a notice issued under SARFAESI Act to the petitioner demanding amount due. Only thereafter, this writ petition was filed by the petitioner. Account statements produced by the respondent Bank shows that the petitioner has not repaid the amount in full.

5.From the records produced before this Court, it is seen that there is a dispute with regard to the amount due from the petitioner. The petitioner filed this petition only after issuing notice under SARFAESI Act. Hence, this writ petition is not maintainable as against the Bank in respect of matters relating to commercial transactions.

6.Apart from that the petitioner is seeking a direction directing the respondent Bank to release the documents which were deposited with the Bank as security. Without filing suit for redemption of mortgage, the petitioner has approached this Court invoking the power of this Court under Article 226 of the Constitution of India ignoring the fact that the petitioner's claim is not supported by the authenticated statement of account. This Court has no reason to raise a doubt as to the veracity or genuineness of the account statement produced by the learned counsel for the respondent. It is open to the petitioner to establish the factual matrix before the Civil Court by filing suit for redemption.

7.Having regard to the fact that the petitioner suppressed the fact that the respondent Bank has initiated action under SARFAESI proceedings and notice had already been issued, this Court is not inclined to entertain this petition. Accordingly, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

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+1 CC to Mr.K.NEELAMEGAM, Advocate (SR-5999[F] dated 13/02/2020)

+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-6160[F] dated 13/02/2020)

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