

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2021

C O R A M

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

WRIT PETITION NO.11831 OF 2011

1. Dr.M. Senthilnathan

2. Jayanthi Senthilnathan,
W/o. M.Senthilnathan
Rep. by their Power Agent Mr.A.Nataraj ...Petitioners

vs.

1. Reserve Bank of India,
Central Office, Nariman Point,
Mumbai-400 021.

2. Reserve Bank of India,
Customer Services Department,
First Floor, Central Office,
Amar Building, Sir P.M.Road, Mumbai-400 001.

3. M/s.Kotak Mahindra Realty (P) Ltd.,
rep. By its Director,
No.36-38-A, Nariman Point,
227, Nariman Point, Mumbai-400 021.

4. M/s.Kotak Mahindra Bank Ltd.,
Asset Recovery Reconstruction Division,
Office at Ist Floor, Ceebros Centre,
No.39, Montieth Road, Egmore,
Chennai-600 008.

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing Respondents 1 and 2 herein to consider and take immediate effective action against the Respondents 3 and 4 herein pursuant to the Petitioner's Representation dated 30.03.2011 read together with the Notice dated 28.01.2011, within a time to be stipulated by this Court.

For Petitioners : M/s.B.Ravi Raja, G.Vikraman
G.Nangopal

For Respondents : Mr.Varun for M/s.Ramalingam &
Associates for R4

O R D E R

The Petitioners complain of the inaction by the Reserve Bank of India (the RBI) upon receipt of the representation dated 30.03.2011, and have instituted the present writ petition to direct the RBI to act on such representation.

2. The Petitioners entered into transactions with the third Respondent and availed credit facilities from the fourth Respondent. The admitted position is that the dispute arose as regards the servicing of the said credit facilities which resulted in proceedings being instituted before the Debts Recovery Tribunal and subsequently before the Debts Recovery Appellate Tribunal. Two representations appear to have been sent by the Petitioners to the RBI on 28.01.2011 and 30.03.2011 as regards the alleged irregularities by the 3rd and 4th Respondents herein in respect of facilities extended to the Petitioners.

3. The learned counsel for the Petitioners refers to the said representations and contends that the RBI, which is the central bank with supervisory control over all the banks and financial institutions in India, cannot wash its hands off the matter and refuse to even respond to the representations of the Petitioners. He further submits that the fourth Respondent Bank has committed several irregularities and retains valuable securities of the Petitioners, who have also paid substantial amounts towards discharge of liabilities.

4. The learned counsel for the Bank submits that the admitted position is that the proceedings were instituted before the Debts Recovery Tribunal and the Debts Recovery Appellate Tribunal and that, therefore, all the grievances of the Petitioners should be raised before the statutory forum and not by way of the present writ petition.

5. Upon considering the rival contentions and on examining the representations, it is evident that several disputed questions of fact have been raised therein. Although the relief prayed for herein is the issuance of a Writ of Mandamus to the RBI, such writ cannot be issued unless it is determined that a statutory duty was not fulfilled by the RBI qua the Petitioners. In the case at hand, such determination cannot be made without adjudicating on several disputed questions of fact that have been raised.

6. It is elementary that disputed questions of fact cannot be conveniently and appropriately addressed in summary proceedings on affidavit evidence. Moreover, a statutory remedy has been provided for parties such as the Petitioners herein to seek redress before the appropriate Debts Recovery Tribunal and to carry the matter in appeal before the appropriate Debts Recovery Appellate Tribunal. In the present case, the undisputed position is that such proceedings were instituted and are said to be pending at the appellate stage.

7. Consequently, I am not inclined to exercise discretionary jurisdiction and entertain the present writ petition. However, it shall be open to the Reserve Bank of India, if it deems it appropriate, to initiate action either pursuant to the representations of the Petitioners or otherwise. The dismissal of this writ petition is also without prejudice to the rights of the Petitioners to canvass their grievance before the statutory forum in accordance with law.

8. W.P.No.11831 of 2011 is disposed on the above terms. There will be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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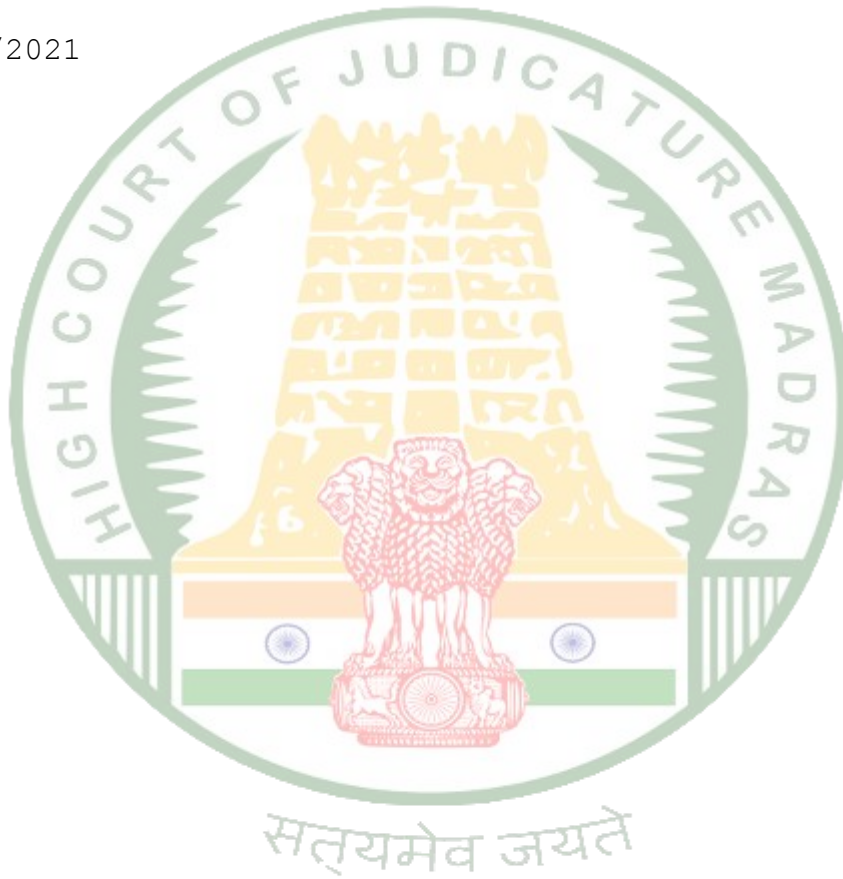
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+1cc to Mr.B.Ravi Raja, Advocate, S.R.No.12073

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PL(CO)
KKV/18/03/2021



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