

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Writ Petition No.3960 of 2021

and

W.M.P.No.4528 of 2021

R.Natarajan

S/o.Ramakrishnan

... Petitioner

Vs.

1.The Managing Director,
Indian Bank, Head Office,
No.66, Rajaji Salai,
Chennai - 600001.

2.The Regional Manager,
Indian Bank Zonal Office,
No.66/4, ECR Road,
Puducherry - 605008.

3.The Senior Manager,
Indian Bank,
Sacred Heart Convent Branch
Door No.523, East Pondy Road,
Villupuram - 605 602.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents from taking any drastic steps towards the petitioner's dwelling house under SARFAESI Act situated at No.285, Velan Street, Sudhakar Nagar, Villupuram - 605 602, by following the Government guidelines.

For Petitioner : Mr.R.Karunakaran

For Respondents: Mrs.S.R.Sumathy

O R D E R

[Order of the Court was made by R.SUBBIAH, J]

This matter is heard through Video Conferencing.

2. Petitioner has filed the present Writ Petition seeking issuance of a Writ of Mandamus forbearing the respondents from taking any drastic steps towards the petitioner's dwelling house under SARFAESI Act situated at No.285, Velan Street, Sudhakar Nagar, Villupuram - 605 602, by following the Government guidelines.

3. Heard learned counsel for petitioner and learned counsel for respondents.

4. Learned counsel for petitioner submits that the petitioner is a retired Head Master. Petitioner availed a home loan from the third respondent bank and mortgaged the house property situated at No.285, Velan Street, Sudhakar Nagar, Villupuram - 605 602 and cleared the housing loan. The grievance of the petitioner is that his daughter viz., Ayshwarya had availed educational loan of Rs.9,00,000/- and paid Rs.1,80,000/- each for five years and petitioner's wife stood as a guarantor. While so, the petitioner's daughter died on 24.09.2015 and his wife also died subsequently on 03.11.2016. The said fact was also informed to the third respondent bank. However, to the shock and surprise of the petitioner, the third respondent bank has issued a demand notice u/s.13(2) of the SARFAESI Act calling upon the petitioner to pay the dues within 60 days otherwise the bank will exercise its enforcement right u/s.13(4) of the SARFAESI Act. Hence, the petitioner has filed the present Writ Petition seeking for the aforesaid relief.

5. On the other hand, learned counsel for respondents Bank submits that the Bank has already filed an Original Application before the Debt Recovery Tribunal.

6. This Court is of the view that the present Writ Petition is not maintainable since the respondents Bank has already filed an Original Application before the Debt Recovery Tribunal. The petitioner has to work out his remedy before the Debt Recovery Tribunal.

7. At this juncture, learned counsel for petitioner submits that the petitioner has already given a representation to the respondents Bank for one time settlement and hence, a direction may be issued to the respondents Bank to consider his representation.

8. In response, learned counsel for respondents Bank submits that if the petitioner approaches the respondents Bank, his representation will be considered. The said submission is recorded.

In the result, the Writ Petition is dismissed. The

petitioner is at liberty to work out his remedy before the Debt Recovery Tribunal. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

- 1.The Managing Director,
Indian Bank, Head Office,
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Chennai - 600001.
- 2.The Regional Manager,
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Door No.523, East Pondy Road,
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+1cc to Mr.R.Karunagaran, Advocate, S.R.No. 11045

Writ Petition No.3960 of 2021

GMI (CO)
GN (29/03/2021)

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