IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.5937 of 2021

Veeraswami ...Petitioner

Vs

1.The Regional Director,
Reserve Bank of India,
Fort Glacis, No.16, Rajaji Salai,
Chennai-600 001.

2.M/s, Intec Capital Ltd, (NBFC)
No.708, Manjusha Building,
57 Nehru Place,
New Delhi-110019. ...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st Respondent to dispose of my representation dated 27.11.2020 given to the 1st respondent in terms of conducting an enquiry with the 2nd respondent for capitalizing the collaterla money of Rs.42,49,350/- with the loan amount of Rs.1,15,00,650/- by preparing a Amortization chart for Rs.1,57,50,000/-.

For Petitioner	:	Mr.R.Sreedhar
For Respondents	:	Mr.C.Mohan for M/s. King & Patridge for R1
	:	Mr. M. Arunachalam for R2

ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Mandamus directing the 1st Respondent to dispose of my representation dated 27.11.2020 given to the 1st respondent in terms of conducting an enquiry with the 2nd respondent for capitalizing the collaterla money of Rs.42,49,350/- with the loan amount of Rs.1,15,00,650/- by preparing a Amortization chart for Rs.1,57,50,000/-.

2. The case of the petitioner is that he is running a printing business at Coimbatore and he obtained a loan of Rs.1,57,50,000/- for purchase of machinery, however, the guarantors have executed a Mortgage deed dated 29.07.2014 in favour of the 2nd Respondent. While being so, being a margin money, the petitioner had paid a sum of Rs.42,49,350/- directly to the seller towards machinery charges and the remaining amount to the tune of Rs.1,15,00,650/- was released directly to the seller by the 2nd Respondent. Further the 2nd Respondent had generated the amortisation chart for the entire amount of Rs.1,57,50,000/- and has also retained the remaining amount of Rs.42,49,350/- as collateral security and the interest was calculated for the same which is against the guidelines issued by the RBI. Such being the case, the petitioner made a representation to the 1st Respondent with regard to the aforesaid issue to the respondent, however, till date, no action has been taken on his representation. Hence, the present Writ Petition is filed seeking the above relief.

3. A counter affidavit has been filed on behalf of the 2nd respondent, in which it has been averred that the writ petition itself is not maintainable for the simple reason that the writ petition is filed against a private institution and only to make the writ petition survive, the petitioner has roped in the Reserve Bank of India as party first respondent. It is the stand of the 2nd respondent that the transaction between petitioner and the 2nd respondent is private contractual transaction. Having accepted the contractual terms, which includes furnishing of collateral security, the petitioner cannot go back and claim that the amount paid by him as security should not be taken into consideration for the purpose of preparing the amortisation schedule. The amount paid by the petitioner is only security and it is not the margin money, which has been paid by the petitioner and, therefore, the amortization chart does not suffer the vice of illegality. There is no fault on the part of the 2nd respondent and the act of the petitioner submitting a representation and coming before this Court for a direction to consider the same and pass orders on the same is not sustainable. Accordingly, the 2nd respondent prays for dismissal of the writ petition.

4. Though very many grounds have been raised, the learned counsel for the petitioner submits that it would suffice, if this Court issues direction to the respondents to consider the representation dated 27.11.2020 made by the petitioner requesting to conduct enquiry with the 2nd Respondent and provide the relief as sought for in the present Writ Petition within a particular time frame fixed by this Court.

5. On the above contentions, this Court heard the learned counsel for the Respondents who reiterated the averments made in the Counter.

6. Though it is claimed by the petitioner that there is violation of the guidelines issued by the Reserve Bank of India and that the amortization chart issued by the 2nd Respondent has not taken into consideration the amount paid by the petitioner towards margin money, the demand made by the 2nd Respondent vide its notice dated 18.06.2020 for a sum of Rs.1,55,13,184/- is erroneous and inspite of representation, no action has been taken on the same by the 2nd Respondent. However such a stand taken by the petitioner cannot be sustained as it needs to be pointed out that the issue between the parties is purely contractual in nature and it is a private contract between the parties and a mere allegation of the violations of certain guidelines of RBI would not be a ground to entertain this Writ Petition. Merely for the purpose of making the Writ Petition, RBI has been made a party. The Writ Petition is not maintainable.

7. Accordingly, for the reasons aforesaid, this Writ Petition is dismissed. With Costs. However, the petitioner is at liberty to workout his remedy with regard to the aforesaid issue in the manner known to law.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

NHS

To

The Regional Director,
Reserve Bank of India,
Fort Glacis,
No.16, Rajaji Salai,
Chennai-1.

+1cc to Mr.R.Sreedhar, Advocate SR.No.58274

+1cc to Mr.M.Arunachalam, Advocate SR.No.58133

W.P.No.5937 of 2021

GPL(CO)
RVM(17/12/2021)