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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 14866 of 2021

K. Ramasamy .. Petitioner

Versus

1. Union of India
   rep. by General Manager
   Reserve Bank of India
   Fort Glacis, Kamarajar Salai
   Chennai - 600 001

2. The Hon'ble Ombudsman
   C/o. Reserve Bank of India
   (Banking Office)
   Fort Glacis, Kamarajar Salai
   Chennai - 600 001

3. The Principal Nodal Officer
   RBL Bank Limited
   JMD Megapolls, Unit No.306-311
   Third Floor, Sehna Road
   Sector - 48, Gurugram
   Haryana - 122 018

4. The Manager
   RBL Bank Limited
   Credit Card Division
   Ground Floor, Nibav Building
   No.11, L.B. Road, Adyr
   Chennai - 600 020 .. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the second and third respondents to take action against the fourth respondent to follow due process of law, regarding collection of loan amount, as guided by Reserve Bank of India, forthwith based on petitioner's complaint dated 08.06.2021

For Petitioner : Mr. M. Govindarajan

For Respondent : Mr. S. Sethuraman for R4

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ORDER

The petitioner seeks to issue a Writ of Mandamus directing the second and third respondents to take appropriate action against the fourth respondent to follow due process of law in the matter of collection of loan amount, as per the guidelines issued by Reserve Bank of India, forthwith based on his complaint dated 08.06.2021.

2. The petitioner availed credit card facility from the fourth respondent bank and by using the credit card, he purchased various items to the tune of Rs.1,79,000/-. It is his contention that he repaid the amount regularly to the fourth respondent bank, however, the recovery personnel attached to the fourth respondent bank frequently called upon him and demanded the repayment of the entire balance amount within a week with exorbitant rate of interest. Further, the petitioner's request to repay the loan amount in instalments has not been acceeded to. Unable to sustain the frequent threats unleashed by the recovery agents appointed by the fourth respondent to collect the loan amount, the petitioner has given a complaint to the respondents 2 and 3 on 08.06.2021 seeking to take appropriate action against the fourth respondent bank for the unfair and unreasonable practice adopted in the matter of recovering the loan amount through threat and coercion. According to the petitioner, the complaint dated 08.06.2021 has not been considered so far and therefore, he has filed this writ petition.

3. The learned counsel for the petitioner submits that the Honourable Supreme Court, time and again, held that private banks should not resort to collect the borrowed amount by adopting third degree methods and such a practice has been deprecated. To substantiate such contention, he placed reliance on the order dated 26.02.2007 passed by the Honourable Supreme Court in Appeal (Crl) No. 267 of 2007 in the case of Manager, ICICI Bank Limited vs. Prakash Kaur and others wherein it was held that Banks have to be held vicariously liable for such acts of the agents engaged by them and that the recovery of loan or vehicle has to be done only through legal means and Banks cannot employ goondas to take possession by force. In the present case, according to the counsel for the petitioner, the fourth respondent bank engaged goondas and hooligans to collect the loan amount from the petitioner without following the due process of law and therefore, the complaint dated 08.06.2021 has been given by the petitioner. However, the respondents 2 and 3 failed to take any action thereof, hence, the learned counsel for the petitioner prayed this Court to issue appropriate direction to the fourth respondent to recover the loan amount by adopting due process of law.

4. The learned counsel appearing for the fourth respondent vehemently contends that the Bank has not adopted any such unlawful method in collecting the loan amount. The petitioner, having availed the credit facilities to the tune of

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Rs.1,79,000/- has failed to repay the same. The loan amount was directed to be repaid by the bank in a lawful manner and the question of exerting pressure towards the petitioner through third degree method does not arise. Above all, the learned counsel submitted that the complaint dated 08.06.2021 preferred by the petitioner has been dealt with by the Insurance Ombudsman, the second respondent herein and it was disposed of on 15.07.2021. Therefore, the Mandamus, as sought for in this writ petition will not arise.

5. Heard the counsel for both sides. The grievance of the petitioner is that the fourth respondent bank has resorted to collect the loan amount payable by him without following due process of law and the complaint dated 08.06.2021 submitted by him has not been acted upon by the respondents 2 and 3.

6. At the outset, the grievance expressed by the petitioner that the fourth respondent bank has engaged muscleman or goons to collect the loan amount, cannot be examined by this Court in this writ petition. In fact, the petitioner himself has given a complaint dated 08.06.2021 to the second respondent, which according to the learned counsel for the fourth respondent bank has been dealt with by the second respondent and disposed of on 15.07.2021.

7. In the light of the above statement made by the learned counsel for the fourth respondent bank that the complaint dated 08.06.2021 given by the petitioner has been disposed of by the second respondent on 15.07.2021, the petitioner is given liberty to challenge the order dated 15.07.2021 of the second respondent in a manner known to law, if he is so advised. Accordingly, the writ petition is disposed of. No costs.

Sd/-
Asst. Registrar

//True Copy//

Sub Asst. Registrar

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To

1. Union of India
rep. by General Manager
Reserve Bank of India
Fort Glacis, Kamarajar Salai
Chennai - 600 001

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2. The Banking Ombudsman
C/o. Reserve Bank of India
(Banking Office)
Fort Glacis, Kamarajar Salai
Chennai - 600 001

+1 C.C.to MR.S.SETHURAMAN, ADVOCATE, SR.NO.52397/2021.

WP No. 14866 of 2021

PM(CO)
RA 20/10/2021

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