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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.13681 of 2021

M/s.Solar Designs Pvt .Ltd
Rep.by its Director C.James Arockia Mary
No.1A-Wing, 3rd Floor
No.602, Parsn Manere
Anna Salai
Chennai- 600 006.

..

Petitioner

Vs.

Assistant General Manager
Indian Overseas Bank
Cathedral Branch
(Now rep by ARM Branch)
No.763, Anna Salai
Chennai- 600 002.

...

Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent relating to ARMB/60/2021-22 dated 14.6.2021, quash the same and direct the respondent to grant an extension of 90 days for the one time Settlement sanctioned in ARMB/147/2020-21 dated 20.3.2021.

For Petitioner : Mr.G.Rajagopalan, Senior Counsel
For M/s. G.R. Associates

For Respondent : Mr.M.L.Ganesh

ORDER

(Made by the Hon'ble Chief Justice)

The petitioner complains of the failure on the part of the respondent secured creditor to extend the time for making payment under a one-time settlement scheme, despite the restrictions during the lockdown preventing the petitioner from making the balance payment.



2. In several matters of the present kind, a consistent view has been taken by this Court that the Writ Court would ordinarily not interfere with the private agreement between a banker and its constituent or unilaterally alter the terms of any one-time settlement, particularly since the OTS offers are made to several similarly placed constituents and it would be extremely unfair to extend the time for the litigant who has come to court and deny the extension to others who may not have come to court.

3. It is the misplaced sympathy of the court at times that results in injustice upon the time being enlarged for one person whereas other persons of the same class are left in the lurch.

4. It is more likely than not that the respondent Indian Overseas Bank may have granted similar OTS terms to many constituents. If the terms are to be altered in any respect in favour of the petitioner, the similar concession should be granted to others.

5. Accordingly, W.P.No.13681 of 2021 is disposed of by requesting Indian Overseas Bank to consider whether it could enlarge the time to make the balance payment in terms of the OTS scheme to all creditors similarly situated as the petitioner, in view of the second surge of the pandemic. The petitioner will be free to appeal to the concerned bank to take the lockdown restrictions into consideration and extend the time for making the payment in terms of the OTS scheme. However, if any time is extended in favour of the petitioner, the same latitude must be shown to other similarly placed persons by the relevant bank.

WMP Nos.14529 and 14527 of 2021 are closed. There will be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kpl

To

Assistant General Manager
Indian Overseas Bank
Cathedral Branch
(Now rep by ARM Branch)
No.763, Anna Salai
Chennai- 600 002.



+1cc to Mr.G.R.Associates, Advocate, S.R.No.39371

W.P.No.13681 of 2021

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AJS (CO)
CB(12/08/2021)