

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14128 of 2020

G.V.Note Book Manufacturing Industry
rep. by its sole Proprietor
G.Vishnukumar
Door No.11/208, Old No.3/208
Puthur Itteri Road, Nethimedu
Salem 636 002.

... Petitioner

Vs.

1. The Deputy General Manager
Circle Head
Oriental Bank of Commerce
Regional/Circle Office
2nd Floor Spencer Plaza
No.769, Anna Salai
Chennai 600 002.
2. The Senior Manager
Oriental Bank of Commerce
Door No.36/16, Meyyanoor Road
Near Three Road Junction
Salem 636 009.

... Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for a writ of Mandamus directing the second respondent
to consider the restructure of loan account application dated
4.3.2020 with respect of two loan account of petitioner bearing
No.22124011000124, 22127011000125 within time bound manner.

For Petitioner : Mr.K.Myilsamy

For Respondents : Mr.M.L.Ganesh

ORDER
(Made by the Hon'ble Chief Justice)

The petitioner applied to the respondent bank for restructuring the credit facilities obtained by the petitioner. But, despite the petitioner submitting requisite documents as sought by the bank, the bank has not indicated its final stand.

2. The writ petition appears to have been filed sometime in September 2020. By such time, the grievance, which forms the basis of the writ petition, was no longer relevant. Though the respondent bank claims that it had responded to the petitioner's request for restructuring the loan, such aspect of the matter is utterly irrelevant.

3. It appears to be the admitted position that a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 was issued by the bank to the petitioner on January 06, 2020. It also remains undisputed that a notice of possession under Section 13(4) of the Act was issued by the secured creditor to the petitioner on March 21, 2020. These notices were received by the petitioner long before lodging the petition.

4. Section 17 of the Act of 2002 permits any person having any grievance against any measure adopted by the secured creditor under Section 13(4) of the Act to approach the appropriate Debts Recovery Tribunal. There is no reason why the petitioner did not choose such usual route and purported to approach this Court under Article 226 of the Constitution.

5. At any rate, the matter involves serious disputes pertaining to accounts which cannot be conveniently addressed on affidavit evidence in summary proceedings. Since there was an efficacious alternative remedy available to the petitioner and since disputes between the parties cannot be effectively decided in summary proceedings on affidavit evidence, W.P.No.14128 of 2020 is dismissed. The petitioner is left free to carry the petitioner's grievance to the appropriate forum in accordance with law. It is made clear that the merits of the matter has not been gone into.

6. There will be no order as to costs. As a consequence, WMP No.17557 of 2020 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KPL

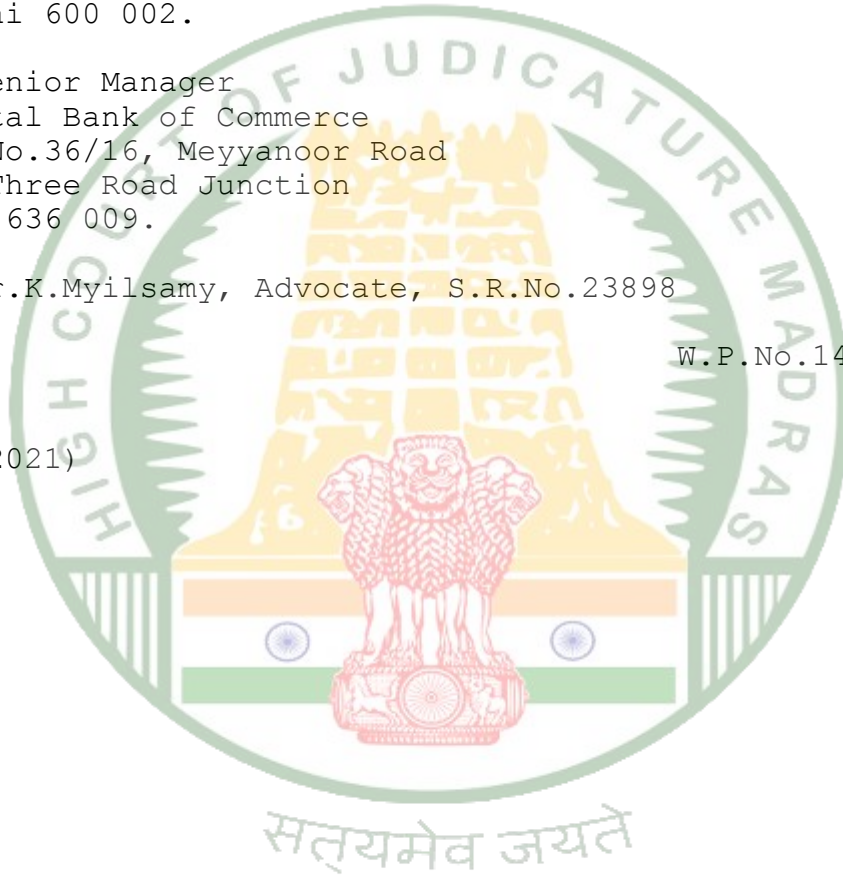
To

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+1cc to Mr.K.Myilsamy, Advocate, S.R.No.23898

W.P.No.14128 of 2020

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