



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

W.P.No.16322 of 2021

and

W.M.P.No.17288 of 2021

M/s.Paterson Cancer Centre Private Limited

Rep. by its Managing Director

Dr. S. Vijayaraghavan,

Registered office at No.175 NSK Salai

Vadapalani, Chennai 600 026.

... Petitioner

Vs

M/s. Indian Overseas Bank

Rep by its Authorised Officer

Asset Recovery Management Branch

Ground Floor, Central Office Building,

763, Anna Salai, Chennai 600 002.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the Respondent Bank to grant waiver of the Covid-19 pandemic Lock down period of 60 days from the 3months period granted for payment of balance OTS amount of Rs 8.20 Crores in the OTS Sanction Letter dated 22.04.2021 of Respondent Bank thereby extend the period by 60 days.

For Petitioner : Mr.B.Natarajan

ORDER

(Made by the Hon'ble Chief Justice)

This is another petition by a borrower seeking exemption of the lockdown period to comply with the terms of the one-time settlement scheme offered by the respondent secured creditor.

2. As has been observed in several matters of similar kind in the recent past, the court does not have the authority to vary the terms of an agreement between two parties, particularly



the terms of an OTS scheme that may have been floated by a nationalised bank, whether for one constituent or for several constituents. More likely than not, the OTS offered to the petitioner herein by Indian Overseas Bank may have been in tune with similar OTS terms offered to several of its constituents by the same bank and it would be unfair for the court to unilaterally extend the time to make payment in terms of such scheme for only the litigant that is before it. Oftentimes, courts jump into such matters with a misplaced sense of sympathy and without being aware that others, similarly placed, are not afforded the same relaxation because they are not before the court.

3. While the court may sympathise with the petitioner and other borrowers who may have been impeded by the lockdown in making payment in terms of the OTS offers, in view of the above observation, the court is not inclined to enlarge the time to make payment. However, it will be open to the petitioner to request the concerned bank to enlarge the time, whereupon the bank should consider the same sympathetically; but, in the event the bank agrees to extend the time, the bank may extend the same courtesy to other similarly placed constituents simultaneously.

W.P.No.16322 of 2021 is disposed. There will be no order as to costs. Consequently, W.M.P.No.17288 of 2021 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

To:

The Authorised Officer
M/s. Indian Overseas Bank
Asset Recovery Management Branch
Ground Floor, Central Office Building
763, Anna Salai, Chennai 600 002.

W.P.No.16322 of 2021

MG (CO)
SB(11/08/2021)