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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.17099 OF 2021

M/s.Johnson Textiles,
Rep. By its Proprietor S.Vengatachalapathi,
No.3A, Nethaji Bypass Road,
New Weavers Colony,
Dharmapuri - 636 701.

... Petitioner

.Vs.

1. The Deputy Manager,
Indian Bank,
Corporate Office, Recovery Department,
1st Floor, "B" Wing,
No.254 - 260, Avvai Shanmugam Salai,
Royapettah, Chennai - 600 014.

2. The Manager,
Indian Bank,
DDDC Building,
Pennagaram Main Road,
Dharmapuri.

3. M/s.Reliance Asset Reconstruction Company Limited,
Rep. By its Authorised Officer,
11th Floor, North Side, R-Tech Park,
Western Express Highway,
Goregoan (East), Mumbai - 400 063.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the second respondent to consider the representation of the petitioner dated 26.07.2021 to enforce the one time settlement in respect of Loan Account Numbers 6063129268 of M/s.Johnson Textiles, 464839561 of M/s.Johnson Sportswear, 833150200 of M/s.Johnson Traders and 976151483 of Johnson Sportswear offered by the third respondent vide its communication dated 13.08.2020.

For Petitioner : Mr.V.Tamizhanban



ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

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This is another of those petitions where the petitioning borrower perceives that the court has the authority to overwrite a contract between the parties and unilaterally extend the time for making payment under a one-time settlement offer.

2. The petitioner had obtained credit facilities from Indian Bank. Indian Bank has assigned the debt due to it from the petitioner to the third respondent asset reconstruction company. The prayer in the writ petition is for the second respondent, manager of Indian Bank, to consider the representation of the petitioner dated July 26, 2021 and to enforce a one-time settlement in respect of the loan accounts on the basis of the offer made by the third respondent asset reconstruction company on August 13, 2020. As to how ridiculous the prayer is, nothing need be said apart from reading the prayer. A borrower obtained credit facilities from a bank and the bank has transferred the debt due to an asset reconstruction company, whereupon the asset reconstruction company offered a one-time settlement to the borrower; but, instead of approaching the asset reconstruction company, the borrower has approached the original creditor to modify the terms of settlement. It was clearly beyond the authority of the manager of Indian Bank to modify any conditions set by the OTS offer made by the third respondent asset reconstruction company and the fact that such manager has wasted no time in even responding to the petitioner cannot be counted against the second respondent.

3. Even if the matter were to be considered independently as a direction for the issuance of a mandamus on the third respondent directly to consider the petitioner's proposal, no order can be made in such regard. It is elementary that courts do not rewrite contracts on behalf of the parties and when an OTS has been offered, unless the offerer accepts the changes suggested by the offeree, the offer does not survive. Ordinarily, entities like asset reconstruction companies offer similar terms to several borrowers. In such a scenario, merely because one of the borrowers is before this court does not imply that the court will extend the time for making payment under the OTS in favour of the litigant before it and give it an undue advantage over others who do not approach the court.

4. The petition is quite baseless and devoid of merit. The petitioner ought to have approached the third respondent with a request to extend the time for making payment. The second respondent would have had no authority to modify the terms



offered by the third respondent after the debt had been transferred by Indian Bank to the third respondent.

5. W.P.No.17099 of 2021 is dismissed. There will be no order as to costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Manager,
Indian Bank,
Corporate Office, Recovery Department,
1st Floor, "B" Wing,
No.254 - 260, Avvai Shanmugam Salai,
Royapettah, Chennai - 600 014.
2. The Manager,
Indian Bank,
DDDC Building,
Pennagaram Main Road,
Dharmapuri.

W.P.NO.17099 OF 2021

RR(CO)
PBS/18/08/2021