IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM :

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

W.P.No.20843 of 2021

1. S.Janaki Raman
2. S.Rajeswari

... Petitioners

.Vs.

1. The General Manager,
   Indian Bank,
   Chennai North,
   Rajaji Salai,
   Chennai - 600 001.

2. The Chief Manager/Authorised Officer,
   Indian Bank,
   Egmore Branch,
   Chennai - 600 008.

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the entire records pertaining to impugned order passed in Ref.EGM/MISC/0216 dated 26.08.2021 and quash the same as illegal, ultra vires and consequently direct the respondents to permit the petitioners to settle the dues in the Secured Over Draft Account No.455131649 with the second respondent in installments in a time bound period.

For the Petitioners : Mr.K.Mohanamurali

ORDER

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

The petitioners, admitted borrowers in default, desire that settlement terms be offered by the bank to allow the petitioners to pay off the dues as and when it may be convenient for the petitioners.

2. The immediate challenge is to a letter issued by respondent Indian Bank on August 26, 2021 in response to the petitioners' request made on August 14, 2021. The bank's letter indicates that a secured overdraft account maintained with the relevant branch turned NPA at the end of March, 2021 and had earlier been regarded as stressed on four occasions in course of the previous year and a half. The bank also asserted in such letter that action was initiated against the petitioners herein under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 after giving "sufficient time of 3 months even after account slipping into NPA".

3. For a start, the present petition is an indirect attempt to arrest the measures that may have been adopted by the respondent secured creditor in terms of the Act of 2002. The borrower had every right to proceed against the secured creditor by taking recourse to Section 17 of the Act of 2002 upon any measure being taken by the secured creditor under Section 13(4) of the Act. More importantly, the prayer that is made is something that cannot even be considered. It is entirely for a banker whether or not it should offer any settlement terms to its constituent. In any event, such matters amount to policy decisions of the bank which are taken in respect of any class of creditors or several classes of creditors. An individual creditor cannot seek a tailor-made settlement offer being made.

4. Finally, there is no equity in favour of the petitioners herein. It has become common place for, particularly, business entities in this country, to obtain credit facilities against specific terms which are agreed to and reduced in writing; but later trying to wriggle out of the repayment commitments and seeking concessions in such regard. The matters have come to such a head that persons who play by the book and adhere to the terms of the contract are left cheated at the end of the day since those who do not pay are offered settlement terms and concessions in a manner where dishonesty appears to be given a premium.

5. Since a matter of offering settlement terms is an entirely voluntary decision of a banker, there does not appear to be any merit in the writ petition.

WP No.20843 of 2021 is dismissed. There will be no order as to costs. WMP No.22111 of 2021 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sra

To

1. The General Manager,
Indian Bank, Chennai North,
Rajaji Salai,
Chennai - 600 001.

2. The Chief Manager/Authorised Officer,
Indian Bank,
Egmore Branch,
Chennai - 600 008.

+1cc to Mr.K.Mohanamurali, Advocate, S.R.No.50600

W.P.NO.20843 OF 2021

SVI(CO)
PBS/07/10/2021