IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

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

WP No.24018 of 2021
and WMP Nos.25324 and 25328 of 2021

T.Ramesh .. Petitioner

Vs.

Federal Bank
Registered Office at Alwaye, Kerala State,
having one of its asset recovery branch
at No.57, Royapettah High Road,
Chennai 600 014. .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the Debt Recovery Appellate Tribunal, Chennai with respect to the order dated 03.09.2021 in MA No.20 of 2021 to the extent that it directs the respondent bank to recovery of the balance amount only (i.e.) to the extent that it directs the petitioner to pay the sum of Rs.4,40,484.23/- in para 8 and consequently, quash the same, and further direct the respondenk bank to return back all the original property documents to the petitiner, more fully described in the schedule given by the respondent bank in their OA No.264 of 2014 before the Hon'ble DRT.

For the Petitioner : Mr.Vaibhav R Venkatesh

ORDER

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

The petitioner questions the propriety of an order dated September 3, 2021 passed by the Debts Recovery Appellate Tribunal at Chennai. The main plank of the petitioner's attack is that three days prior to the certificate issued against the petitioner by the Debts Recovery Tribunal-II, Chennai, the matter was settled between the respondent bank and the petitioner upon the respondent bank demanding the payment of a sum of Rs.8,60,302/-. The petitioner makes out a case that the bank acted fraudulently in going behind the back of the petitioner and obtaining a certificate for a sum in excess of Rs.17 lakh on July 31, 2015.

2. By the appellate order, the payments made by the petitioner were taken into account and the petitioner was found liable for whatever balance amount remained due in the account. According to the petitioner, the amount due in terms of the order passed by the DRAT would be Rs.4,40,484.23. However, such figure cannot be discerned from the order impugned herein.

3. The petitioner claims that the petitioner obtained two sets of loan from the respondent bank and paid off an amount of about Rs.6 crore in the major account while the amount due in respect of a housing loan was to the tune of Rs.17 lakh when the bank instituted proceedings under Section 19 of the then Recovery of Debts due to Banks and Financial Institutions Act, 1993, before the DRT-II, Chennai. There is no dispute that the petitioner had due notice of such proceedings and had adequate opportunity to contest the same.

4. The petitioner relies on a notice dated July 28, 2015 issued by the bank wherein, according to the petitioner, a one-time settlement offer was made by the bank for payment of a sum of Rs.8,60,302.10 for the housing loan account to be closed. The indignation of the petitioner is upon the petitioner agreeing to pay such amount but the bank proceeding nonetheless before the DRT-II and obtaining what the petitioner calls a fraudulent order on July 31, 2015.

5. Indeed, from the papers filed by the petitioner, it is evident that the payment of the amount of Rs.8,60,302.10 had not been made by August 26, 2015, more than three weeks after the final order was passed on the bank's petition under Section 19 of the Act of 1993.

6. The petitioner claims that the petitioner approached the DRT-II to review its order, but the DRT-II merely recorded that any payments that the petitioner may have made in respect of the account would be credited to the petitioner. The petitioner carried the original order in appeal culminating in the order impugned dated September 3, 2021 being passed and the petitioner perceiving such order to require the petitioner to pay a further sum of Rs.4.40 lakh.

7. To begin with, the letter issued by the bank on July 28, 2015 could not have misled the petitioner into believing that any one-time settlement offer was made thereby. Such letter clearly indicated that no interest had been charged in the account since or about July 3, 2012 when the bank approached the DRT by way of the recovery proceedings. The letter clearly stated that the sum of Rs.8,60,302.10 due was exclusive of "applicable interest to be applied from 03.07.2012." As to the perceived fraud allegedly purported on the petitioner by the bank obtaining the order on July 31, 2015 despite its aforesaid letter of July 28, 2015, there does not appear to be any wrong done since, admittedly, even the limited amount demanded had not been paid before such order was issued and, presumably, the total amount indicated in the order included the interest that had not been reflected in the account but was taken into consideration by the tribunal in the proceedings under Section 19 of the Act of 1993.

8. There was no anomaly on the part of the DRT-II in subsequently rejecting the petitioner's prayer for review. It is undesirable that the petitioner had due notice and knowledge of the proceedings instituted by the bank and ought to have contested the same. The petitioner could never have been misled into believing that the sum of about Rs.8.60 lakh demanded by the letter of July 28, 2015 reflected the final amount due and owing from the petitioner to the bank.

9. The appellate tribunal has appropriately dealt with the matter by requiring credit to be given to the petitioner for all the payments made and for interest to be calculated accordingly. Though the exact amount due from the petitioner to the bank has not been spelt out in the order impugned, it is a matter of simple arithmetic and it is quite possible that the figure may be the paltry amount of about Rs.4.40 lakh as the petitioner suggests. However, there is nothing in the order impugned passed by the appellate tribunal that calls for interference, particularly in the limited scope available in this jurisdiction.

10. The petitioner built up the case with a lot of hype as the petitioner was an honourable borrower which had duly discharged the larger debt and should be credited for having paid up the lesser amount also. However, the documents on record do not support the petitioner's case, despite it being apparent that the petitioner substantially discharged the dues to the bank. The amount due from the petitioner to the bank in terms of the order impugned has to be paid. There is no merit in the petitioner's grievance that the petitioner was short-changed or had been unfairly treated by the bank.

11. For all the drama that the petitioner indulged in, the petitioner will pay costs assessed at Rs.1 lakh to the Tamil Nadu State Legal Services Authority since the bank has not been disturbed and the petition is dismissed at the stage of admission.

WP No.24018 of 2021 is dismissed. WMP Nos.25324 and 25328 of 2021 are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sra

To:

1. The Registrar Debts Recovery Appellate Tribunal,
   Chennai.

2. The Secretary,
   Tamilnadu State Legal Services Authority,
   High Court Buildings,
   Chennai.

WP No.24018 of 2021

NRJK (CO)
K.RK. (17.11.2021)