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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2021

CORAM :

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

W.P.NO.24360 OF 2021

V.P.Sivakumar

... Petitioner

.Vs.

1. The Deputy General Manager
and Zonal,
UCO Bank, Zonal Office,
Coimbatore.
2. The Chief Manager,
UCO Bank, Tirupur Main Branch,
Tirupur - 641 601.

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus to direct the respondent to consider the request of the petitioner dated 23.8.2021 for one time settlement to the value of Rs.1.05 crore.

For the Petitioner : Mr.A.Palaniappan

ORDER

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

The petitioner complains of the failure on the part of the respondent secured creditor to extend the time for making payment under a one-time settlement scheme, despite the restrictions during the lockdown preventing the petitioner from making the balance payment.



2. In several matters of the present kind, a consistent view has been taken by this court that the writ court would ordinarily not interfere with the private agreement between a banker and its constituent or unilaterally alter the terms of any one-time settlement, particularly since the OTS offers are made to several similarly placed constituents and it would be extremely unfair to extend the time for the litigant who has come to court and deny the extension to others who may not have come to court.

3. It is the misplaced sympathy of the court at times that results in injustice upon the time being enlarged for one person whereas other persons of the same class are left in the lurch.

4. It is more likely than not that the respondent UCO Bank may have granted similar OTS terms to many constituents. If the terms are to be altered in any respect in favour of the petitioner, the similar concession should be granted to others.

5. Accordingly, W.P.No.24360 of 2021 is disposed of by requesting UCO Bank to consider whether it could enlarge the time to make the balance payment in terms of the OTS scheme to all creditors similarly situated as the petitioner, in view of the second surge of the pandemic. The petitioner will be free to appeal to the concerned bank to take the lockdown restrictions into consideration and extend the time for making the payment in terms of the OTS scheme. However, if any time is extended in favour of the petitioner, the same latitude must be shown to other similarly placed persons by the relevant bank.

W.M.P.No.25668 of 2021 is closed. There will be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy General Manager
and Zonal,
UCO Bank, Zonal Office,
Coimbatore.



2. The Chief Manager,
UCO Bank, Tirupur Main Branch,
Tirupur - 641 601.

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PPA (CO)
PBS/23/11/2021