



WEB COPY

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

WP No.24709 of 2021

and

WMP No.26001 of 2021

G.Nageswaran

.. Petitioner

Vs.

1. The Regional Manager,
Union Bank of India,
139, Prakasam Road,
Manadi Police Colony,
George Town, Chennai 600 001.
2. The Manager,
Union Bank of India,
Shenoy Nagar Branch,
5, Kanniamman Koil Street,
Shenoy Nagar, Chennai 600 030.
3. The Authorised Officer,
Union Bank of India,
Shenoy Nagar Branch,
5, Kanniamman Koil Street,
Shenoy Nagar, Chennai 600 030.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent Bank to consider my representations dated 23.10.2021 and 8.11.2021 for one time settlement of the loan amounts of Rs.17.39 crores and furnish the statements of loan account of the petitioner.

For the Petitioner : Mr.S.Arunkumar

ORDER

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

The petition is completely misconceived as the prayer



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therein is for a mandamus for the first respondent secured creditor to consider the petitioner's representations of October 23, 2021 and November 8, 2021. The representations pertain to the petitioner seeking a settlement of the dues owed to the secured creditor.

2. It is elementary that even a Writ Court cannot direct a banker to settle its claim with its constituent or to accept any amount less than what is due to the bank in terms of the loan agreement.

3. The immediate cause for rushing to court appears to be a notice dated October 11, 2021 issued by the secured creditor under Rule 8 of the Security Interest (Enforcement) Rules, 2002 and the apparent lack of response of the secured creditor to the petitioner's aforesaid representations. The petitioner also questions the legality of the notice dated October 11, 2021.

4. There is no doubt that the secured creditor in this case has resorted to a measure under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 as the impugned notice itself indicates. In such a scenario, any person aggrieved, including the petitioner herein as a borrower, is entitled to approach the jurisdictional Debts Recovery Tribunal under Section 17 of the said Act. Since there is an efficacious alternative remedy available to the petitioner, this extraordinary jurisdiction under Article 226 of the Constitution could not have been invoked.

5. The petitioner claims that the sale by auction is scheduled to be conducted by the bank in course of the day. If such sale has already been conducted or is due to be conducted later today, it is the petitioner who can only be blamed for the delay. The petitioner received the impugned notice prior to October 21, 2021 and delayed taking any action till the very last date.

For the reasons aforesaid, WP No.24709 of 2021 is dismissed without going into further merits thereof and by leaving the petitioner free to invoke the jurisdiction of the DRT in accordance with law. WMP No.26001 of 2021 is closed. There will be no order as to costs.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

sra



To:

1. The Regional Manager,
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WP No.24709 of 2021

RLD(CO)
SU(29/11/2021)