BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **19.03.2021**
CORAM
THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**
W.P.(MD) No.6209 of 2021
and
W.M.P.(MD) No.4809 of 2021

James Velladurai .. Petitioner

Vs

1.The Regional Director,
Reserve Bank of India,
Chennai Region,
Fort Glacis, No.16, Rajaji Salai,
Chennai-01.

2.The General Manager,
State Bank of India,
Circle top House,
16, College Lane,
Chennai 06.

3.The Branch Manager,
State Bank of India,
Palancottai Branch,
Tirunelveli District.

4.The Branch Manager,
State Bank of India,
Sankarankovil Branch,
309, Rajapalayam Road,
Sankarankovil,
Tirunelveli District. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating with the order dated 15.02.2020, made in Misc.22, by the 3rd respondent and quash the same, as it is arbitrary and illegal and in consequence to direct the respondents 3 and 4 to repay the petitioner, a sum of Rs.3,45,000/- with interest at the rate of 9% per annum from 05.02.2020, which is illegally withdrawn by them from his account in SB.A/C No.11058341679, in the 4th respondent bank.

For Petitioner : Mr.R.Suriyanarayanan

ORDER

The case of the petitioner is that his daughter availed an educational loan of Rs.2,40,000/- from the 3rd respondent bank for studying B.Tech (ECE) course in Karunya College of Engineering and

Technology, Coimbatore. According to him, the loan amount being below 4 lakhs, there was no requirement of giving guarantee or collateral security for sanctioning of the loan. According to the petitioner, despite the above position, he was forced to sign in the loan papers as a co-borrower. The petitioner is a retired State Government employee and is having savings bank account in the 4th respondent bank.

2.The 3rd respondent bank having sanctioned the educational loan towards the higher education of the petitioner's daughter found that the repayment was not forthcoming and the loan obligation has also not been discharged and therefore, it appeared that they filed a suit for recovery of money in O.S.No.135 of 2019 on the file of the Sub Court, Sankarankovil, against the petitioner and her daughter and the suit is pending before the Sub Court. According to the petitioner,a detailed written statement has been filed, denying his liability and in any case, the accounts standing to his credit in the 4th respondent bank is not attachable under the provisions of the Code of Civil Procedure.

3.While matter stood thus, when the petitioner presented a self-cheque to withdraw an amount against his account in the 4th respondent bank, the same was refused illegally and in that regard, the petitioner submitted a detailed representation on 06.02.2020. In response to the same, the 3rd respondent sent a reply on 15.02.2020 stating that a sum of Rs.3,45,000/- had been withdrawn by them from his pension account in the 4th respondent bank. The petitioner has also submitted a complaint on 03.03.2020 to the banking ombudsman, but the same was not taken on file on the ground that a civil suit is pending relating to the recovery of money.

4.According to the petitioner, since he has left with no option or alternative, he is before this Court, challenging the reply of the 3rd respondent dated 15.02.2020 and for a direction to repay the amount withdrawn by them illegally with interest.

5.The learned counsel for the petitioner had made elaborate submission as to the illegality in the action of the 3rd respondent in withdrawing the amount from his savings bank account, which amount in fact is not attachable at all under the provisions of the Code of Civil Procedure. The submissions made by the learned counsel for the petitioner may have some force and substance but whether this Court could entertain such objections in the face of pending suit filed by the bank seeking recovery from the petitioner is what the consideration of this Court in the writ petition.

6.When the bank has initiated recovery proceedings by filing a suit in O.S.No.135 of 2019 before the Sub Court, Sankarankovil, the subject matter of dispute in this Court is already being looked into by the civil Court in the proceedings initiated by the bank. Even otherwise, when a suit is pending for recovery of money from the petitioner, even assuming that the bank has illegally withdrawn the money in the interregnum, it is not proper for this Court to entertain this writ petition on a parallel consideration and issue any interim direction. If this Court were to issue any direction or entertain this writ petition, that would have a direct bearing on the suit proceedings initiated by the bank against the petitioner and his daughter.

7.In any event, it is always open to the petitioner to resort to civil litigation separately or in the pending suit, if there is a prohibition from attachment of his salary under the provisions of the Code of Civil Procedure. It is certainly not open to the petitioner to maintain this parallel proceedings, particularly, under Article 226 of the Constitution of India and this Court would not entertain this writ petition as that would not be proper in the circumstances of the case.

8.For the stated reasons, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021
Sub Assistant Registrar(CS)

W.P.(MD)No.6209 of 2021
19.03.2021

MJ(CO)
KB(21.04.2021) 3P 1C