



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD)No.7087 of 2021

B.Haribalan Navaneetha Krishnan @ Haribalan : Petitioner

Vs.

1.The Regional Manager,
Zonal Office,
State Bank of India,
Dr.Ambedkar Road, Madurai.

2.The Branch Manager,
State Bank of India,
Nehruji Nagar Branch,
74, Municipal Colony, Nehruji Nagar,
Dindiugl.

: Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records pertaining statement of account and the calculation of the second respondent, dated 22.02.2021 pertaining to Account No.30937029830 of the petitioner with the second respondent and quash the same as illegal and consequently to direct the second respondent to furnish a clearance certificate towards the loan liability of the petitioner.

For Petitioner

:Mr.C.M.Arumugam

ORDER

The case of the petitioner is that he has availed a housing loan to the tune of Rs.3,09,971/- from the second respondent branch of State Bank of India. According to the petitioner that regular repayments have been made against the loan account for sometime. However, certain repayments had been defaulted from the side of the petitioner, which led to initiation of proceedings under the SARFAESI Act. The property, which is given as mortgage, was also sold through auction proceedings.



2. According to the petitioner that the Bank has realised a sum of Rs.2,75,000/- through auction proceedings and considering the repayments made by the petitioner, more than the loan amount, the Bank has realised the entire outstanding from the petitioner. According to the petitioner that there is no liability on the petitioner to pay any further dues to the Bank, as the Bank has realised more than what it is due to them after realisation of the sale of the mortgage property of the petitioner under the auction sale.

3. While matter stood thus, the petitioner is aggrieved by the communication of the second respondent, dated 22.02.2021, which is nothing but a statement of accounts directing the petitioner to settle the outstanding dues to the Bank. Challenging the same, the petitioner is before this Court.

4. Mr.C.M.Arumugam, learned Counsel for the petitioner attempted to submit that nothing is due as on date to the second respondent Bank, as the entire amount more than what it is due on payable has been settled by the petitioner and in the process of his submission, he has also attempted to draw the attention of this Court to the factum of payments made and received by the Bank.

5. This Court is unable to appreciate as to how a Writ Petition could be entertained on the basis of the competing statements of the petitioner on the one hand and on the other by the respondent Bank. In a dispute of this nature, it would certainly involve investigation of facts and the adjudication would also involve the resolution of factual controversies, as competing claims of the parties would be in the realm of statement and counter statement. Such adjudication is not possible in the writ jurisdiction.

6. In a matter like this, where the rights of parties arise from the contractual obligation, a public law remedy cannot be invoked, particularly, the constitutional jurisdiction of this Court under Article 226 of Constitution of India. The proper recourse for the petitioner is to go before the Civil Court to adjudicate his rights by establishing his factual plea, as to the number of payments made and as to the actual amount paid and as to the fulfilment of all the contractual obligation and the final discharge of loan amount sanctioned by the Bank. It is certainly not open to the petitioner to invoke the constitutional jurisdiction of this Court for settlement of his dispute as regards the loan transactions between him and the Bank, which dispute would squarely fall outside the scope of Writ jurisdiction.



7.For the aforesaid reasons, this Writ Petition stands dismissed. No costs.

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Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

Cmr

To

1.The Regional Manager,
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Dr.Ambedkar Road, Madurai.

2.The Branch Manager,
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74, Municipal Colony, Nehruji Nagar,
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KM(24.05.2021) 3P 3C