BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.08.2021
CORAM :
THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE
AND
The HON'BLE MR.JUSTICE M.DURAISWAMY

W.P.(MD) No.11216 of 2019

M/s.Agalya Fly Ash Bricks,
Represented by its Proprietor K.Sivasankar ... Petitioner

vs.

1)The General Manager,
Tamilnadu Mercantile Bank Ltd.,
Head Office,
Thoothukudi.

2)The Regional Manager,
Tamilnadu Mercantile Bank Ltd.,
Regional Office,
Chinnachokkikulam,
Madurai.

3)The Branch Manager,
Tamilnadu Mercantile Bank Ltd.,
Oddanchathiram Branch,
Oddanchathiram,
Dindigul District. ... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to grant one time settlement offer to the petitioner towards the petitioner loan account No.271700050900006 maintained at 3rd respondent branch in terms of RBI guidelines.

For Petitioner : Mr.R.Murali for Mr.K.Govindarajan
For R1 : No appearance
For R2 & R3 : Mr.N.Dilip Kumar

ORDER

[Order of the Court was made by ***The Hon'ble Chief Justice***]

This petition is utterly misconceived and a mischievous attempt by a defaulting borrower to subject a secured creditor to double jeopardy since the petitioner has simultaneously approached the Debt Recovery Tribunal and has obtained orders in respect of the measures taken by the respondent secured creditor under Section 13 (4) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002.

2.The recalcitrance on the part of defaulting borrowers in the country knows no bounds and courts brimming with misplaced sympathy come to the aid of defaulting borrower more often than is desirable. It has almost become a habit for a borrower to obtain credit facilities, not repay and expect some amount of rebate to be granted by a court. It puts a premium on default while other similarly placed borrowers suffer for simply not having approached the Court.

3.The petition seeks a direction for the secured creditor to consider a one-time settlement offer made by the petitioner. There is no law - atleast none which enforceable under Article 226 of the Constitution - which obliges a creditor to consider any offer for settlement or provides for any dilution of the creditor's statutory or natural right. The very audacity of the writ petitioner to approach the Court speaks ill of the practice that may have developed in the court.

4.At any rate, it is submitted on behalf of the respondent secured creditor that the concerned request was promptly dealt with and a reply duly issued to the petitioner. However, that is besides the point. The petitioner has already carried the matter to Debt Recovery Tribunal and, in all fairness, should have abandoned the writ petition, even if there may have been some cause to bring it in the first place.

5.W.P(MD)No.11216 of 2019 is dismissed with costs assessed at Rs.25,000/- to be paid to the secured creditor which the secured creditor is entitled to recover along with its other dues. The Debt Recovery Tribunal would do well to take up the relevant petition as expeditiously as possible so that these defaulting creditor cannot take advantage of the courts' delay to continue the default.

6.There shall be no order as to costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TO

The Presiding Officer,
The Debit Recovery Tribunal
IV Floor, Kalyani Towers,
Melur Road,
Madurai.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-27109[F] dated 24/08/2021)

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-27342[F] dated 25/08/2021)

W.P(MD)No.11216 of 2019
DATED : 24.08.2021

ES(CO)
KB(22.09.2021) 3P 4C