BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:27.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P.(MD) No.12764 of 2021

L.Athirstaraj ... Petitioner

Vs

1.The Reserve Bank of India,
No.16, Rajaji Salai,
Fort Glacis, Chennai - 600 001.

2.The Regional Office,
Tamilnad Mercantile Bank Limited,
No.45, Pulla Avenue, East Block,
Shenoy Nagar, Chennai - 600 030.

3.The Chief Manager,
Tamilnad Mercantile Bank Limited,
Head Office,
57, V.E.Road, Rathna Colony,
Thoothukudi 628 001.

4.The Branch Manager,
Tamilnad Mercantile Bank Limited,
Prahasapuram Branch,
No.151, Margoschis Road,
Nazareth - 628 617.
Thoothukudi District. ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus, to directing the respondent Nos. 3 & 4 to consider the petitioner's representation dated 11.06.2021 and direct the respondents 3 and 4 to provide further time to repay the balance loan due amount.

For Petitioner : Mr.J.David Ganesan

For respondents : Mr.N.Dilip Kumar
Standing Counsel for R2 to R4

ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

We have heard Mr.J.David Ganesan, learned counsel appearing for the petitioner and Mr.N.Dilip Kumar, learned Standing Counsel appearing for the respondents.

2. The petitioner, who is the borrower of a business loan from the fourth respondent-bank has defaulted in repayment, which has resulted in issuance of notice under Section 13(2) of the SARFAESI Act, dated 18.05.2021. The petitioner is before this Court praying for a direction to the fourth respondent to consider his representation dated 11.06.2021.

3. In our view, there is no such need or necessity to issue any direction. If the petitioner has given a reply to the notice under Section 13(2) of the SARFAESI Act, the bank will consider the same and proceed in terms of the provisions of the Act.

4. On the other hand, if the petitioner genuinely wants to settle the outstanding, he should approach the bank and make a *bona fide* statement before the bank and unless and until, a reasonable amount is paid towards the outstanding loan amount, the bank obviously will not consider the representation.

5. Mr.N.Dilip Kumar, learned counsel appearing for the respondent-Bank submitted that the bank has sent a communication to the petitioner to approach the General Manager. If the petitioner approaches the General Manager with the empty hand, the General Manager cannot help the petitioner. If he shows his *bona fide* by paying a reasonable amount, then probably, the General Manager can consider the request of the petitioner subject to the guidelines, which have been framed by the respondent-Bank.

6. With the above observations, the **Writ Petition stands disposed of** giving liberty to the petitioner to approach the fourth respondent-Bank for necessary relief. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pkn

Note :
In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Reserve Bank of India,
No.16, Rajaji Salai,
Fort Glacis, Chennai - 600 001.

+1 CC to M/s.N.DILIPKUMAR, Advocate(SR-23981[F]dated 27/07/2021)

+1 CC to M/s.J.DAVID GANESAN, Advocate (SR-24139[F]dated 28/07/2021)

W.P.(MD) No.12764 of 2021
27.07.2021

RK (05.08.2021) 3P 4C