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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2021

CORAM:

**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS. JUSTICE S.ANANTHI**

**W.P. (MD)No.13984 of 2020
and WMP(MD) No.11638 of 2020**

(Through Video Conferencing)

Latha : Petitioner
Vs.

1.The Union of India represented by
its Secretary
Department of Financial Services,
Ministry of Finance, New Delhi

2.The Authorized Officer,
Axis Bank Ltd,
No.B-35 Triveni Building,
First Floor,
Sasthiri Road, Thillai Nagar,
Trichy

3.The Branch Manager,
Axis Bank Ltd.,
Kumbakonam Branch
Kumbakonam
Thanjavur District.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus to direct the respondents 2 and 3 to receive the remaining loan amount of Rs.23,00,000/- from the petitioner and credit the same in the loan account No.CCAGR914030048766664 and Loan Account No.LNKCC917060060741670, as per the one time settlement arrived between them and to return the original documents and lift the property which were hypothecated with the third respondent bank in loan Account No. CCAGR914030048766664 and Loan Account No. LNKCC917060060741670.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.V.Malaiyendran, Central Government
Standing Counsel for R1
Mr.M.Senthilkumar for R2 & R3



ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

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The petitioner seeks a writ of Mandamus against a Bank, which is not an instrument of the State, over a commercial transaction. As rightly submitted by the respondents 2 and 3, the writ petition as filed is not maintainable. The petitioner's account has been declared as Non Performing Assets. In fact, the problem started in the month of March 2020. At that time, one time settlement has been arrived at, which has been defaulted by the petitioner. The contentions raised cannot be gone into for two reasons, namely, respondents 2 and 3 are not amenable to Article 12 of the Constitution of India and the transaction is commercial in nature. Further more, arbitration proceedings are pending. In such view of the matter, this writ petition stands closed leaving all rights open to be agitated before the respondents 2 and 3. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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
The Secretary
Department of Financial Services,
Ministry of Finance, New Delhi.

+1 CC to M/s.M.SARAVANA KUMAR, Advocate (SR-9748[F] dated 09/03/2021)

W.P. (MD)No.13984 of 2020

Dated: 08.03.2021

SE (CO)
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