



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2021

CORAM:

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.14126 of 2021

Manickam

... Petitioner

versus

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

2.The Manager,
Fortune Integrated Assests Finance Limited,
Regional Office,
No.23, Wood Head Centre,
2nd Floor, Sivaganga Salai,
Nungampakkam,
Chennai-600 034.

3.The Manager,
Fortune Integrated Assests Finance Limited,
No.67/70, 2nd Floor,
K.R.V.Arcade, K.R.Plaza,
Simmakkal,
Madurai-625 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, to direct the first respondent to take and initiate action as against the third respondent's finance company and also to insist the third respondent to give Hypothecation Release's "No Objection Certificate for the vehicle bearing Registration No.TN 65 AW 5456 (Bajaj Auto) and on the basis of the representation of the petitioner sent to the 1st respondent dated 16.07.2021 within a time frame limit by perusing all the documents submitted on the side of the petitioner.

For Petitioner : Mr.R.Babu Jaganath

ORDER

The petitioner seeks a direction to the Reserve Bank of India to initiate action against the third respondent financial institution.

2.The petitioner states that he purchased a vehicle bearing registration No.TN 65 AW 5456 by availing financial assistance from

<https://hcservices.ecourts.gov.in/hcservices/>



the third respondent. Such financial assistance was provided subject to the hypothecation of the aforesaid vehicle in favour of the financial institution. The admitted position is that such financial institution is a private institution although it may be under the supervisory control of the Reserve Bank of India.

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3. According to the petitioner, he was required to remit a sum of Rs.7,400/- per month for 48 months as EMI, but remitted a sum of Rs.10,000/- between 15.11.2018 and 15.12.2020. On account of the fact that a higher sum than that agreed to was debited from his account, he issued a notice to the third respondent for recovering such excess amounts. A representation was also submitted on 16.07.2021 to the first respondent and the writ petition is filed on account of the failure of the first respondent to reply to the petitioner's representation.

4. The facts set out above disclose conclusively that the matter pertains to a loan transaction between the petitioner and the private financial institution. In exercise of jurisdiction under Article 226 of Constitution, the Court ordinarily declines to interfere with such loan transactions because public law is not involved. In other words, such loan transactions are governed by the terms and conditions of the relevant loan agreement. While the petitioner claims that he has paid excess amounts, it is highly likely that the financial institution will provide statements of account to the contrary. Therefore, these matters raise disputed questions of fact which cannot be conveniently addressed in proceedings under Article 226 of Constitution. The petitioner also has recourse to civil remedies in such regard.

5. While the petitioner asserts that the first respondent would qualify as state for the purpose of Article 12 of the Constitution, the first respondent cannot be expected to interfere with regard to every loan transaction and disputes arising therefrom.

6. Consequently, W.P.(MD).No.14126 of 2021 is dismissed without any order as to costs by leaving it open to the petitioner to initiate appropriate civil proceedings to redress his grievances.

Sd/-

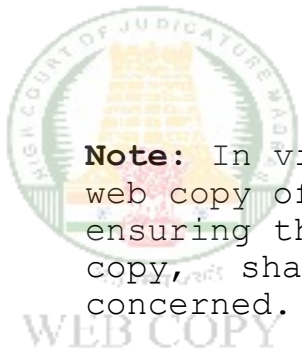
Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

sbn



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

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