BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.10.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.18253 of 2021
and
W.M.P.(MD)No.15089 of 2021

R.Ashok Kumar ... Petitioner

Vs.

1.The Reserve Bank of India,
For Tamil Nadu and Union Territory of Puduchery,
Fort Glacis, Rajaji Salai,
Chennai-600 001.

2.The Banking Ombudsman,
C/o. Reserve Bank of India,
Fort Glacis, Rajaji Salai,
Chennai-600 001.

3.The Manager,
Asset Recovery Branch,
R.S.No.170/9,
Mattuthavani Melur Road,
Madurai-625 107.

4.The Branch Manager,
Karur Vysya Bank Limited,
Thirunagar, Madurai 625 006. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 3 and 4 to restructure the Open Cash Credit Loan availed by M/s.Holy Textiles in OCC Account No.1655-223-013 as per the notification in RBI/2020-21/17 bearing DOR.No.BP.BC/4/21.04.048/2020-21 dated 06.08.2020 by considering the petitioner's representation dated 11.09.2021.

For Petitioner : Mr.R.Paranjoti

ORDER

The petitioner seeks the restructuring of an Open Cash Credit Loan availed of from the Karur Vysya Bank Limited.

2.The petitioner states that a loan was availed of from the Karur Vysya Bank in the year 2014. According to the petitioner, such loan was discharged until the Covid-19 pandemic. On account of such pandemic, the petitioner states that the Reserve Bank of India announced a one time restructuring scheme for MSMEs. As per the terms thereof, an applicant's loan account should be in the standard asset category as on 01.03.2020 with a maximum exposure of 25 crores. The petitioner states that a communication dated 01.11.2020 was received from the Bank informing the petitioner that the account had fallen into the Special Mention Account 2 category and that the petitioner should take necessary action to eliminate the stress in the account by availing of applicable solutions in such regard. In spite of seeking restructuring, the petitioner states that such restructuring was not offered. Instead, a demand notice dated 10.06.2021 was issued under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (the SARFAESI Act). Such demand notice was followed by a possession notice dated 04.09.2021 under Section 13(4) of the SARFAESI Act. The present writ petition is filed in such facts and circumstances.

3.In judicial review, ordinarily, the Court does not interfere with loan transactions between a bank and its constituent. In addition, in the case at hand, the relevant loan account has been classified as a non-performing asset and measures have been taken under Section 13(4) of the SARFAESI Act. Once measures are taken under Section 13(4) of the SARFAESI Act, the person aggrieved should approach the jurisdictional Debts Recovery Tribunal under Section 17 thereof. Instead, the petitioner seeks an interim injunction to restrain the bank from proceeding under Section 13(4) of the SARFAESI Act. Even as regards the request for restructuring, it is for the bank to consider the request and grant such restructuring provided the petitioner satisfies the terms and conditions of the restructuring scheme of the Reserve Bank of India.

4.For reasons set out above, the petitioner has failed to make out any case to grant the relief prayed for. Consequently, W.P.(MD) No.18253 of 2021 is dismissed without any order as to costs by leaving it open to the petitioner to initiate appropriate proceedings under Section 17 of the SARFAESI Act before the jurisdictional Debts Recovery Tribunal. Consequently, W.M.P.(MD) No.15089 of 2021 is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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.

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MGJ(26.10.2021) 3P 1C