



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.37185 and 29512 of 2007
MP No.2 of 2007

Cause title in WP No.37185 of 2007

M/s.R.S.Marketing,
Represented by its Proprietor,
Mr.PRem Prakash Sikka,
No26, Chennaiappa Nagar,
Mannari (PO), Tiruppur - 641 607

...Petitioner

Vs.

1.The Office of the Banking Ombudsman
Represented by its Assistant Secretary,
Reserve Bank of India Building (II Floor),
Fort Glacis, Post Box No.40,
16, Rajaji Salai, Chennai 600 001.

2.ICICI Bank Limited,
Rep. By its Manager,
AEPC Building,
No.3, 3rd street,
Indra Nagar, Thirupur 641 603

...Respondents

Cause title in WP No.29512 of 2007

1.M/s.Dixcy Textiles Pvt Ltd.,
Represented by its
Managing Director,
9/10 & 1, Kizhakkala Thottam,
Sakthi Nagar, Karumarampalayam,
Mannari (PO), Tiruppur - 641 607

...Petitioners

Vs.

1.The Office of the Banking Ombudsman
Represented by its Assistant Secretary,
Reserve Bank of India Building (II Floor),
Fort Glacis, Post Box No.40,
16, Rajaji Salai, Chennai 600 001.



2.ICICI Bank Limited,
Rep. By its Manager,
AEPC Building, No.3, 3rd street,
Indra Nagar, Thirupur 641 603

...Respondents

Common Prayer :- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus to call for the records of the 1st respondent relating to the Proceedings No.BO(CHN) /355/C 1647/2007-2008 dated 25.07.2007 and quash the same and consequently direct the 1st respondent to entertain the complaint dated 19.06.2007 & 19.07.2007 respectively, dispose off the same on merits.

For Petitioners : Mr.S.S.Swaminathan
in both WPs

For Respondents : No appearance for R1
in both WPs Mr.S.Namasivayam for R2

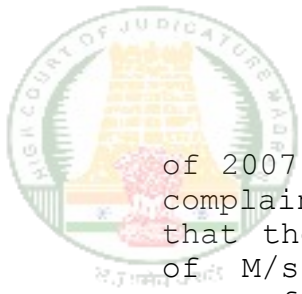
C O M M O N O R D E R

The subject matter of challenge in these writ petitions pertains to the order passed by the 1st respondent dated 25.07.2007 wherein the complaint given against the 2nd respondent bank was refused to be entertained on a technical ground by the 1st respondent.

2. The petitioner in W.P.No.29512 of 2007 is the Sister concern of the petitioner in WP No.37185 of 2007 and the proprietor of M/s.R S Marketing is the Managing Director of the Company, which is the petitioner in WP No.29512 of 2007. The case of the petitioners is that they are doing textile business and they availed cash credit facility from the 2nd respondent for their working capital. The further case of the petitioners is that the 2nd respondent bank offered the facility subject to creation of registered mortgage as a collateral. The 2nd respondent bank also issued the sanction letter and both the petitioners had executed and signed the loan documents.

3. The grievance of the petitioners is that the 2nd respondent bank started charging excess interest and also penal interest for the delay in execution of the mortgage.

4. The petitioners took a decision to close the cash credit facility and sought for the release of the mortgage offered as a collateral security. According to the petitioners, the 2nd respondent charged a sum of Rs.4,17,413/- against the various charges and also imposed a exist fee of 2%. The petitioners were aggrieved by the action of the 2nd respondent and hence, a complaint was filed in the name of the petitioner in WP No.29512



of 2007 before the 1st respondent. The 1st respondent rejected the complaint without going into the merits of the case by stating that the entire documents that were submitted stood in the name of M/s.R S Marketing and whereas the complaint was given in the name of the M/s.Dixcy Textiles Private Limited. Aggrieved by the same, these writ petitions have been filed before this Court.

5. Heard Mr.S.Swaminathan, learned counsel for the petitioner and Mr.S.Namasivayam, learned counsel for 2nd respondent. The 1st respondent has been served with notice and the name has also been printed in the cause list and no one appears for the 1st respondent.

6. In the considered view of this Court, it is not necessary for this Court to go into the allegations made by the petitioner against the 2nd respondent. The 1st respondent had rejected the complaint on a technicality without appreciating the fact that M/s.Dixcy textiles Private Limited is only a sister concern of M/s.R S Marketing and in fact even in the credit arrangement letter, both have signed. In view of the same, this Court is inclined to remand the matter back to the file of the 1st respondent and issue appropriate directions and fix a time limit for the completion of the proceedings.

7. In view of the above discussion, the impugned order dated 25.07.2007 passed by the 1st respondent is hereby set aside and the matter is remanded back to the file of the 1st respondent. The 1st respondent is directed to issue notice to the petitioner as well as the 2nd respondent bank and provide them with opportunity and pass appropriate orders strictly within a period of four months from the date of receipt of the copy of this order.

8. These writ petitions are allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

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To

1.The Office of the Banking Ombudsman
Represented by its Assistant Secretary,
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2.ICICI Bank Limited,
Rep. By its Manager,
AEPC Building,
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Thirupur 641 603

+1cc to Mr.S.S.Swaminathan, Advocate Sr.No.33451, 33452

W.P.Nos.37185 and 29512 of 2007
MP No.2 of 2007

SKM(CO)
RVM(06/07/2022)