IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2022

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.10740 of 2018

Monotech System Limited,
Represented by its authorised signatory,
3rd Floor, City Centre,
No.66, Thirumalai Road,
T.Nagar, Chennai - 600 017.

.. Petitioner

Vs.

1.Axis Bank Limited,
Rep. by its Branch Manager,
SMA Branch,
1st Floor, Karumuthu Nilayam,
No.192, Anna Salai,
Chennai - 600 002.

2.Axis Bank Limited,
Rep. by its Branch Manager,
T.Nagar Branch,
G.N.Chetty Road,
Chennai – 600 017.

3.The Chief General Manager in Charge,
Department of Banking Supervision,

Reserve Bank of India,
Centre I, World Trade Centre,
Cuffe Parade, Mumbai - 400 005.

4.Office of the Banking Ombudsman,
Reserve Bank of India Building,
Floor II No.16, Rajaji Salai,
Chennai – 600 001. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 4th respondent relating to its letter dated 11.01.2018 bearing No.BO (Che)/6865/C-3692/2017-18 passed against the complaint filed by the petitioner dated 02.11.2017 and quash the same and consequently direct the 1st and 2nd respondent to refund the sum of Rs.13,80,000/- illegally collected from the petitioner towards processing fee, with interest at 18% from 27.03.2017 till the date of realization in favour of the petitioner.

For Petitioner .. Mr.M.Abdul Razack

For R1 & R2 .. Mr.R.Palanikumar Ramesh

For R3 & R4 .. No appearance

ORDER

This Writ Petition has been filed in the nature of Writ of Certiorarified Mandamus, seeking records of the 4th respondent namely, office of the Banking Ombudsman, Reserve Bank of India, Chennai, with respect to the letter dated 11.01.2018 passed against the complaint filed by the petitioner dated 02.11.2017 and to interfere with the same and also to refund a sum of Rs.13,80,000/- illegally collected from the petitioner towards processing fee.

2.Having heard the learned counsel for the petitioner and the learned counsel for the 1st and 2nd respondents, let me reduce the facts of the case in simple terms as follows.

3.The petitioner had applied for loan of Rs.33,00,00,000/- from the 1st and 2nd respondents. They had forwarded the necessary papers. They had expressed their intend to all concerned, that they are interested in obtaining the said loan. Naturally, the 1st and 2nd respondents as bankers, thrive on advancing such loans as part of their business. They lend loans to prospective applicants, on necessary security being furnished. The petitioner herein has sought loan of Rs.33,00,00,000/-. Papers which were forwarded, have to be processed by the senior officials of the 1st and 2nd respondents. Labour is involved in that. Scrutiny of papers require skilled knowledge.

4.On normal basis, if the loan had actually been finally sanctioned and received by the petitioner, this scrutiny of papers would invite a processing fee to be levied by the 1st and 2nd respondents, which under normal circumstance would be a percentage of loan amount, which is sought. In this instance, the loan amount being around Rs.33,00,00,000/-, the processing fee was determined at Rs.13,80,000/-. A cheque to that amount had also been issued by the petitioner.

5.The petitioner had apparently then obtained from other sources the loan and therefore had taken a decision to walk away from the 1st and 2nd respondents.

6.A communication was issued by the petitioner, which is not quite clear, but still which conveyed that the 1st and 2nd respondents should not present the cheque for payment. The 1st and 2nd respondent had given a reply that they would process the loan within that particular evening itself. They had also sanctioned the loan. With this sanction, the duty expected of the 1st and 2nd respondents stood discharged. They had no further responsibility and the responsibility shifted to the petitioner to commence repayment of the loan in accordance with the terms of sanction.

7.However, since the petitioner have walked away from receiving the loan, the petitioner is now before the Court seeking refund of the said sum of Rs.13,80,000/-.

8.There is no law involved on these facts. It is a question of balancing equities. The loan has not flowed away from the 1st and 2nd respondents. The amount had not been disbursed to the petitioner herein. However, it is an admitted fact that the 1st and 2nd respondents have spent their knowledge and their skill in scrutinizing the documents. Naturally, they should be paid for that particular exercise, which they had done.

9.To balance the equities, I would direct the 1st and 2nd respondents to retain a sum of Rs.5,00,000/- and return back the balance amount to the petitioner herein. This entire process should be completed within a period of four weeks from the date of receipt of a copy of this order.

10.With the above observations, this Writ Petition stands disposed of. No costs.

14.12.2022

Index:Yes/No
Internet:Yes/No
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C.V.KARTHIKEYAN,J.

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