



WEB COPY

W.P.No.11893 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.11893 of 2022

Kowsalya

... Petitioner

VS.

1.The Authorised Officer,
Axis Bank, Retail Asset Centre,
Kodambakkam, Chennai – 600 024.

2.The Manager/Authorised Officer,
Axis Bank, Cuddalore – 607 001.

3.The Authorised Officer,
Axis Bank, RAC Axis Bank Ltd.,
Asset Sales Centre,
No.6, St.Ange Street,
Opp. Immaculate Conception,
Cathedral, Pondicherry.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Mandamus directing the respondents to record discharge of Loan Account No.PHR020900706302 and consequently, execute a duly registered discharge receipt.



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For Petitioner : Mr.R.Md.Nazarudhullah,
for Mr.D.Baskar

For Respondents : Mr.R.Sreedhar

ORDER

This writ petition has been filed for a mandamus seeking for a direction to the respondents to discharge the loan bearing account No.PHR020900706302 and consequently, execute a duly registered discharge receipt.

2. The petitioner alleges that the second respondent sanctioned loan of Rs.17,59,680/- to her husband under loan account No.PHR020900706302 and the said loan was insured. However, according to her, only Rs.13,00,000/- was disbursed that too in instalments. According to the petitioner, SARFAESI proceedings has been initiated by the respondents to recover the loan amount. The petitioner's husband is no more as he died on 20.05.2021. According to the petitioner, as per the terms of the insurance policy, on the death of the borrower, the insured amount shall be



claimed by the creditor and credited to the loan account and loan account shall be closed. It is also stated that the petitioner has informed about her husband's death to the respondents within a period of two weeks from the date of his death. According to the petitioner, since the loan is fully insured, the loan has been discharged. The petitioner has given representations requesting the respondents to discharge the loan and last such representation was given on 07.02.2022. Since the representation has not been considered till date, the petitioner has filed this writ petition.

3. Heard Mr.R.Md.Nazarudullah, learned counsel representing Mr.D.Baskar, learned counsel for the petitioner and Mr.R.Sreedhar, learned counsel appearing for the respondents.

4. A positive direction as sought for by the petitioner cannot be granted by this Court and it is for the second respondent to consider the representation of the petitioner seeking for discharge of loan on merits and in accordance with law.

5. No prejudice would be caused to the respondents, if the petitioner's



representation seeking for discharge of loan availed by her husband which according to her, her husband has fully insured, is considered on merits and in accordance with law after affording a fair hearing to the petitioner including granting her the right of personal hearing.

6. For the foregoing reasons, the second respondent is directed to consider the petitioner's representation seeking for discharge of loan bearing loan account No.PHR020900706302 and also for execution of registered discharge receipt and pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioner including granting her the right of personal hearing within a period of eight weeks from the date of receipt of a copy of this Order.

7. With the aforesaid direction, this writ petition is disposed of. No costs.

06.07.2022

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Index:Yes/No

Internet:Yes/No

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Speaking/Non-speaking orders

To

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ABDUL QUDDHOSE, J.
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