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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2022

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.NOS.22916 & 29297 OF 2018

AND

W.M.P.NO.26808 TO 26812 & 34244, 37785 OF 2018

Dr.S.Peter, Chairman,
Madha Group of Academic Institutions,
By M/s.Sosaiya Peter Educational Trust and
M/s.Loordhu Ammal Educational Trust,
No.15, Verghese Avenue,
Ashok Nagar, Chennai - 600 083.
Also at No.1-A, Chari Street,
North Usman Road, T.Nagar,
Chennai - 600 017.

... Petitioner in
both W.P's

.Vs.

1. The Zonal Manager/Regional Manager,
Dena Bank, Chennai Zonal Office,
BKR Convention Centre,
No.32, Venkatesan Street,
T.Nagar, Chennai - 600 017.
2. The Assistant General Manager,
Dena Bank, T.Nagar Branch,
New No.6, Old No.54,
South Boag Road, T.Nagar,
Chennai - 600 017.
3. The Bank Manager,
Dena Bank, Thandalam Branch,
Madha Medical College Campus,
Thandalam, Koovur,
Chennai - 600 122.
4. The Reserve Bank of India,
RBI Main Building,
Fort, Mumbai - 400 001.

... Respondents in
both W.P's

(4th respondent is suo-motu impleaded as
per the order of this Court on 09.03.2022)



PRAYER IN W.P.NO.22916 OF 2018:-

This Writ petition has been filed seeking a direction to the respondents to return all the original sale deeds bearing Document Nos.944 of 1999, 5240 of 1999, 2953 of 1994, 6400 of 1996, 3056 of 1995, 4526 of 1995, 6414 of 1996, 6195 of 1996, 1551 of 1996, 3710 of 1994, 1918 of 1995, 2657 of 1996, 6284 of 1996 and 5485 of 2001, relating to the mortgaged properties with the 2nd respondent, in discharge of the said mortgage and execute a registered receipt for cancellation of the Memorandums of Deposit of Title Deeds relating to the said property, within a time stipulated by this Court, further reverse all wrong debits, excess interest charged in the accounts, give credit to all rental arrears and other charges to the Loan Account No.051257023763 in the name of M/s.Loordhu Ammal Educational Trust and such other reliefs, in terms of the representation dated 19.06.2018 and having been denied by the respondents in their Reply letter dated 03.07.2018.

PRAYER IN W.P.NO.29297 OF 2018:-

This writ petition has been filed seeking a writ of Certiorarified Mandamus to call for the records culminating in the impugned letter dated 11.10.2018 bearing Ref No.08/TN/ADV/2018 of the 2nd respondent, quash the same and consequentially direct the respondents not to degrade the loan accounts to Special Mention Accounts (SMA) or classify the same as Non Performing Assets (NPA) on account of the mutual credits to be made to the account by payments due from the 2nd respondent, which is the subject matter in W.P.No.22916 of 2018.

For petitioner : Mr.OM.Prakash
in both W.P's Senior Counsel
For Mr.R.Murali

For respondents : Mr.G.R.Lakshmanan
in both W.Ps For R1 to R3

Mr.C.Mohan
For M/s.King and Patridge
For R4

O R D E R

W.P.No.22916 of 2018 has been filed seeking a direction to the respondent-Dena Bank to return the documents produced before the Bank for creating a mortgage by depositing the title deeds and also reverse the wrong debits, and excess interest charged in the petitioner's accounts.



2. W.P.No.29297 of 2018 has been filed challenging the notice issued by the respondent/Dena Bank directing the petitioner to clear the balance interest due to the Bank.

3. The case of the petitioner is that, the petitioner obtained a loan from the respondent Dena Bank, Subsequently, he had discharged the entire loan. However, some wrong entries have been made in the account and excess interest has also been charged. Even after discharge of the entire loan amount, the documents produced by the petitioner for creating mortgage by depositing the title deeds, were not returned. Hence, W.P.No.22916 of 2016 has been filed. Pending the said Writ Petition, the respondent Bank issued a notice directing the petitioner to pay the excess interest. Challenging the said notice, another writ petition, namely, W.P.No.29297 of 2018, has been filed.

4. Considering the facts and circumstances of the case, the Reserve Bank of India is suo-motu impleaded as party respondent in both the writ petitions.

5. The learned counsel for the petitioner submitted that the Dena Bank has wrongly given some debits in the account maintained by the Bank, which does not disclose the correct payment of the loan amount due by the petitioner, and due to wrong calculation, they are demanding excess interest. Apart from that, there is also some dispute regarding the payment of lease amount for installing the ATM machines in the Trusts and Colleges.

6. The learned counsel appearing for the respondents 1 to 3 submitted that, pending writ petition, all the documents produced by the petitioner have been returned and as on date, no document is pending with the Bank. He further submitted that the account maintained by the Bank clearly reveals that the petitioner has to pay some more interest due to the Bank and absolutely, there is no discrepancy in the account maintained by the Bank.

7. I have considered the rival submissions made on either side and perused the materials available on records.

8. The learned counsel for the petitioner, on instructions, submitted that they have received the entire documents.

9. So far as the alleged discrepancy found in the account maintained by the Bank and demanding more interest is concerned, it is a disputed question of fact, which cannot be gone into the writ petition filed under Section 226 of the Constitution of India. If at all the petitioner has any grievance over the



demand issued by the Bank, it is always open to him to approach the Banking Ombudsman constituted by the Reserve Bank of India or before the Civil Court to resolve the dispute and those disputes cannot be resolved in the writ petition. In the said circumstances, the prayer sought for by the petitioner cannot be granted and same are liable to be dismissed.

10. Accordingly , both the writ petitions are dismissed. However, liberty is given to the petitioner to approach the Banking Omsudsman constituted by the 4th respondent/Reserve Bank of India or before the concerned Civil Court. If the petitioner wants to approach the Banking Omsudsman, the petitioner is permitted to file a necessary petition within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Zonal Manager/Regional Manager,
Dena Bank, Chennai Zonal Office,
BKR Convention Centre,
No.32, Venkatesan Street,
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2. The Assistant General Manager,
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3. The Bank Manager,
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Madha Medical College Campus,
Thandalam, Koovur,
Chennai - 600 122.



4. The Reserve Bank of India,
RBI Main Building,
Fort, Mumbai - 400 001.

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+2ccs to Mr.G.R.Lakshmanan, Advocate, S.R.No.16392 & 16393

W.P.NO.22916 & 29297 OF 2018

VBM(CO)
PBS/25/05/2022