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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.17123 of 2020
and W.M.P.No.21606 of 2020

R.Runghanathun

...Petitioner

Vs.

1. The Banking Ombudsman,
Reserve Bank of India Building (2nd Floor),
Fort Glacis, Post Box No.40,
16, Rajaji Salai,
Chennai 600 001.

2. The Branch Manager,
Corporation Bank,
Peruntholuvu Branch,
Tiruppur.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent leading to the order dated 08.07.2020 passed by the 1st respondent in BO (Che)/201920006021047/22144 and thereby quash the same and further direct the 2nd respondent herein to return the excess amount paid by the petitioner and to close the fixed deposit bearing receipt number KCC 279/05 and payout the sum with interest along with the documents given.

For Petitioner : Mr.G.R.Deepak

For Respondent : Mr.P.Veera Raghavan

O R D E R

The petitioner has filed this petition seeking issuance of Writ of Certiorarified Mandamus to call for the records of the respondent leading to the order dated 08.07.2020 passed by the 1st respondent and quash the same and further direct the 2nd respondent herein to return the excess amount paid by the petitioner and to close the fixed deposit and payout the sum with interest along with the documents given.



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2. The case of the petitioner is that the petitioner is farmer by profession and have maintained account with the 2nd respondent and deposited all money with the Bank. The petitioner has also availed educational loan in the year 2006-2007 for his son and daughter for an amount of Rs.10 lakhs and Rs.12 lakhs and he was asked to deposit originals of receipt of two fixed deposit along with original title deeds of property in S.F.NO.528, 529/1,2,3, Upputhotam, Thonguttipalayam, Tiruppur. While so, the petitioner had given a written complaint against the 2nd respondent to the 1st respondent highlighting the fraud played by the bank with respect to the loan availed by his daughter and son and thereby he had given a detailed explanation as to how the bank could deduct the amount fraudulently from the petitioner's account without his approval and knowledge and the petitioner also made repeated demands to refund his excess amount along with the originals of the documents deposited towards security for education loan. Aggrieved by the same, the present petition is filed by the petitioner.

3. The learned counsel for the petitioner submits that the 2nd respondent has made the petitioner to run pillar to post and withheld the amount by charging a different interest from the interest which was promised to the petitioner and further the petitioner is entitled to receive the fixed deposit of Rs.2 lakhs which was deposited in the year 2005 with interest and the documents illegally withhold by the 2nd respondent and prays for appropriate orders of this Court.

4. The learned Standing counsel appearing for the petitioner submitted that the borrower was not regular in making the payment of the loan and paid the loan installments whenever there is an overdue of more than 60 to 90 days and presently the education loans of the children of the petitioner is still overdue and not yet closed as per records and further the Bank is unable to release the title deeds as both the loans are still outstanding and the interest is collected as per the sanction terms and conditions and further as per the loan agreement, the respondents are entitled to collect penal interest. Therefore, the petitioner cannot raise disputed question of facts by way of writ petition, as there is no merit in the allegations whatsoever and prays for dismissal of this petition.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. This Court, on perusal of the materials, is of the considered view that facts in the present case involves disputed question of fact, which cannot be decided by this Court in the present Writ Petition and further if at all the petitioner is aggrieved by the order of the 1st respondent dated 08.07.2020, he



has to approach the appropriate Forum for redressal of his grievance and the petitioner, without availing the available remedy, approaching this Court is not sustainable and further if this Court expresses any opinion on the merits of the matter, it would adversely affect the rights of the parties before the Civil Court.

7. In view of the above, this Writ Petition is disposed of and a liberty is granted to the petitioner to file appropriate petition before the competent Civil Court for redressal of his grievances. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Banking Ombudsman,
Reserve Bank of India Building (2nd Floor),
Fort Glacis, Post Box No.40,
16, Rajaji Salai, Chennai 600 001.
2. The Branch Manager,
Corporation Bank,
Peruntholuvu Branch,
Tiruppur.

+1cc to Mr.G.R.Deepak, Advocate SR. No.6560

W.P.No.17123 of 2020

MT (CO)

PR (24/03/2022)