



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2022

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.1175 of 2021

1.Muthulakshmi
2.A.Marimuthu

...Petitioners

Vs.

1.The Chief Manager,
Canara Bank,
Rajapalayam.

2.The Branch Manager,
Canara Bank,
Rajapalayam Branch,
Rajapalayam.

...Respondents

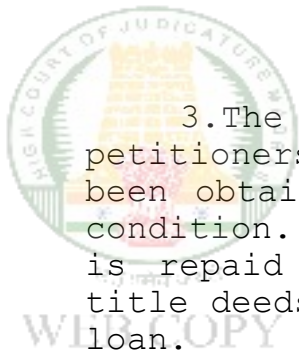
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to receive the balance loan amount of M/s.ARU TEX business bearing loan account number 0957261010545 and to return back the original documents deposited by the petitioners by considering the representation of the second petitioner, dated 09.11.2020.

For Petitioners	:	Mr.P.Paranthaman
For Respondents	:	Mr.N.Dilip Kumar Standing Counsel

ORDER

Heard Mr.P.Paranthaman, learned Counsel who appears for the petitioners and also Mr.N.Dilip Kumar, learned Standing Counsel who appears for the respondents.

2.The petitioners borrowed loans from the respondent with respect to a partnership of firm ARU Tex, in which, it is stated that they are partners. Quite apart from that, they also appear to have borrowed loans in their individual names. Totally, there are three loans. In one of the loans, namely, with respect to the partnership firm ARU Tex for Rs. 40,00,000/-, they had also mortgaged their properties. As on date, the outstanding in the other two loans is about nearly Rs.2 crores.



3.The learned Counsel for the petitioner claims that the petitioners are prepared to settle the entire loan amount, which had been obtained by the partnership firm ARU Tex. But, they place a condition. The learned Counsel states if that particular one loan is repaid in its entirety, the respondents must return back the title deeds which had been mortgaged with respect to that particular loan.

4.This stand is seriously objected by Mr.N.Dilip Kumar, learned Standing Counsel for the respondents, who places reliance on the general lien which a banker have over the mortgaged properties and also the right to transfer the property as a security for the existing loan. It is also stressed by Mr.N.Dilip Kumar, learned Standing Counsel that the petitioners and the respondents are bound by the agreement and therefore, this Court under Article 226 of the Constitution of India can never interfere with such an agreement, as a parties have, with their own eyes open, and with *consensus ad idem* entered into such an agreement.

5.It is only appropriate that the parties have themselves settle the issues between them. If at all, there is any intervention, it should be before the competent Civil Court or a Court established for that purposed in manner known to law. One of that is the Tribunal which has been so established, the Debt Recovery Tribunal. It is stated that since the loans have been declared as a non-performing assets, the respondents had already filed an application before the Debts Recovery Tribunal and had invoked the provisions of the SARFAESI Act. The petitioners for good measures have also filed an application in S.A.No.367 of 2020.

6.It is thus seen that quite apart from that the agreement which they have entered into they are also interlocked with judicial proceedings before a competent tribunal.

7.Any relief sought by the petitioner may be placed only before the said Tribunal and if it is filed, then I am confident that the said Tribunal would examine the same in manner known to law.

8.With the above observation, this Writ Petition is dismissed.
No costs.

Sd/-

Assistant Registrar (Records)

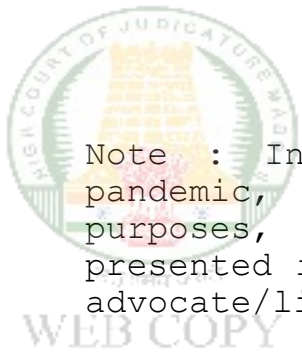
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/ /2022

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 CC to M/s.N. DILIPKUMAR, Advocate (SR-685[F] dated 06/01/2022)

W.P (MD) .No.1175 of 2021
06.01.2022

BK (CO)
KB (28.01.2022) 3P 2C