



W.P.(MD) No.8263 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.8263 of 2022
and
W.M.P.(MD)No.6151 of 2022

S.R.Dhanush Kodi Raja

... Petitioner

-Vs-

State Bank of India,
Rep. by its Assistant General Manager,
Stressed Assets Recovery Branch (SARB),
Vinayaganagar Branch (Upstairs),
No.8, Dr. Ambedkar Road,
Madurai – 20.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the Respondent from taking any coercive steps against the petitioner in respect of immovable property mortgaged for the Cash credit Loan (A/c No.10303473072) availed in the Respondent Bank and

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consequentially to direct the Respondent Bank to accept the balance payment a sum of Rs.3,23,98,164.49/- under OTS proceedings of the Respondent Bank in Ref. ASD/OTS-20/1A dated 17.10.2020 within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Ajmalkhan,
Senior Counsel for
M/s.Ajmal Associates
For Respondent : Mr.N.Dilipkumar

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This writ petition has been filed praying for issuance of a Writ of Mandamus, forbearing the respondent from taking any coercive steps against the petitioner in respect of immovable property mortgaged for the Cash Credit Loan (A/c No.10303473072) availed in the Respondent Bank and consequentially to direct the respondent Bank to accept the balance payment of a sum of Rs.3,23,98,164.49/- under OTS proceedings of the Respondent Bank in Ref. ASD/OTS-20/1A dated 17.10.2020, within a time frame.

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2. It is the case of the petitioner that he has availed cash credit loan from the respondent bank for an amount of Rs.60 lakhs in the year 1989 and the same was extended to Rs.7,13,00,000/- during the year 2013 to 2016. Subsequently, on 28.10.2017, the respondent bank has declared the account of the petitioner as Non Performing Assets (NPA). Thereafter, the respondent bank issued a demand notice under Section 13(2) of the SARFAESI Act on 01.11.2017 and issued a possession notice under Section 13(4) of the SARFAESI Act, on 08.01.2018. Thereafter, the respondent has proceeded for auction and issued a sale notices on 09.08.2019 and 20.03.2020. However, for want of bidders, the sale was not taken place. Thereafter, the petitioner approached the bank for OTS proposal. Accepting the offer made by the petitioner, the respondent has passed an order, by directing the petitioner to pay a sum of Rs.4,12,93,164/- as OTS out of the total outstanding amount of Rs. 8,07,00,000/-. On 23.11.2020, the petitioner paid Rs.20,64,658/-, 5% of OTS offer. On 31.01.2020, the petitioner has paid a sum of Rs.41,29,316/- 10% of OTS offer towards 1st instalment. The petitioner has not paid the second instalment as per the OTS scheme. The petitioner has sent a letter to the

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respondent bank to extend the OTS offer and the same has been rejected by the respondent bank. Thereafter, on 02.03.2022, the petitioner submitted a compromise letter to settle the loan by payment of Rs.3,05,00,000/-. The respondent bank rejected the petitioner's offer and on 07.05.2022, took physical possession of the petitioner's premises. Hence, the petitioner has filed this writ petition for the aforesaid prayer.

3. The learned Senior Counsel appearing for the petitioner submitted that it is suffice, if the respondent bank is directed to consider the compromise offer made by the petitioner.

4. In reply, the learned counsel appearing for the respondent bank submitted that in the earlier occasion, the respondent bank has given several opportunities to the petitioner to honour the offer made under the OTS scheme and the respondent bank is always ready to consider the request of the petitioner.



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5. Considering the submissions made by both sides, we are of the view the prayer sought for by the petitioner cannot be maintained, as the petitioner has not challenged any of the rejection order passed by the respondent bank and admittedly, the petitioner has defaulted in paying the amount under the OTS scheme. However, the petitioner is at liberty to approach the bank for settlement.

6. In the light of the above, there is no merit in the writ petition and accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[D.K.K., J.] & [R.V., J.]

07.12.2022

Index : Yes / No

Internet : Yes / No

vsm

To
The Assistant General Manager,
State Bank of India,
Stressed Assets Recovery Branch (SARB),
Vinayaganagar Branch (Upstairs),
No.8, Dr. Ambedkar Road,

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