BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2022

CORAM :

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA**
**and**
**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.P(MD)Nos.22587 to 22590 of 2021
and
WMP(MD)Nos.19104 to 19107 of 2021

M/s.Laxmi Readymades Pvt. Ltd,
Represented by
Director Mr.MU.Kanagarajen
No.51, Chinnakadai Street,
Trichy. ... Petitioner in W.P.22587/2021

M/s.Latshmees,
Represented by Partner
Renuka Devi,
No.51, Chinnakadai Street,
Trichy-2. ... Petitioner in W.P.22588/2021

M/s.Laxmi,
Represented by Partner
MU.Kanagarajen
No.51, Chinnakadai Street,
Trichy-2. ... Petitioner in W.P.22589/2021

M/s.Laxmi Silk Centre,
Represented by Partner
Mr.MU.Kanagarajen,
No.51, Chinnakadai Street,
Trichy-2. ... Petitioner in W.P.22590/2021

vs.

1) The Authorized Officer,
State Bank of India,
(Erstwhile State Bank of Travancore)
No.8, Dr.Ambedkar Road,
Vinayaga Nagar Branch First Floor,
Madurai-625020.

2) The State Bank of India,
(Erstwhile State of Travancore)
Represented by its Branch Manager,
No.8, Dr.Ambedkar Road,
Vinayaga Nagar Branch First Floor,

Madurai-625020. ... Respondents in all WPs

Prayer in W.P(MD)No.22587 of 2021 : Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to accept the balance 95% of the OTS amount to the tune of Rs.1,21,26,882/- as per the OTS sanction letter dated 30.11.2020 issued by the 2nd respondent and discharge the mortgage documents.

Prayer in W.P(MD)No.22588 of 2021 : Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to accept the balance 95% of the OTS amount to the tune of Rs.90,75,059/- as per the OTS sanction letter dated 30.11.2020 issued by the 2nd respondent and discharge the mortgage documents.

Prayer in W.P(MD)No.22589 of 2021 : Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to accept the balance 95% of the OTS amount to the tune of Rs.1,35,72,963/- as per the OTS sanction letter dated 30.11.2020 issued by the 2nd respondent and discharge the mortgage documents.

Prayer in W.P(MD)No.22590 of 2021 : Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to accept the balance 95% of the OTS amount to the tune of Rs.27,45,675/- as per the OTS sanction letter dated 30.11.2020 issued by the 2nd respondent and discharge the mortgage documents.

For Petitioner(in all WPs) : Mr.M.Arun Murugan
For Respondents(in all WPs) : Mr.N.Dilipkumar
Standing Counsel

**COMMON ORDER**

(Order of the Court was made by
**PUSHPA SATHYANARAYANA, J.**)

The borrowers are the petitioners in all the writ petitions who have sought for Mandamus, seeking direction to the respondent Bank to accept the balance 95% of the OTS amount to the tune of Rs.1,21,26,882/-, Rs.90,75,059/-, Rs.1,35,72,963/- and Rs.27,45,675/- respectively, as per the OTS sanction letter dated 30.11.2020 and discharge the mortgage documents.

2. The Bank had also already issued auction notice for recovering the outstanding amount of Rs.13,03,16,183/- due as on 31.07.2021. The said auction notice was challenged in S.A.No.473 of 2021 which had ultimately become infructuous. In the meanwhile, the OTS sanction letter was issued on 30.11.2020 as per which, the petitioners have to pay 10% within 30 days of the sanction and

another 10% within 60 days of the OTS sanction letter. The balance will be paid in 6 months without interest and it would carry 6% interest if it is paid in 8 months. Therefore, the outer limit for paying the amount is May 2021 without interest and July 2021 with interest. The Bank had refused to accept the offer of the petitioners, since 10 + 10% of the amount was not paid within 60 days stipulated in the sanction letter. Though it is argued that the petitioners were prepared to deposit the entire agreed amount as per the OTS letter, since there was a delay in the payment of the first 10%, the Bank refused to accept the OTS. Hence, these writ petitions.

3. The learned standing counsel appearing for the Bank would invite our attention to the SBI Scheme for One Time Settlement of NPAs and AUCAs. The learned counsel pointed out that the said scheme is non-discretionary and non-discriminatory. Clause 4 of the said scheme refers to the mode of payment. Clause 4(ii) reads that ''The borrower has to deposit another 10% of the OTS Amount (As per the settlement formula) as first instalment within thirty days from the date of sanction of OTS failing which the OTS sanction will be rendered infructuous and OTS treated as failed.''

4. Admittedly, in this case, the above referred 10% was not paid by the petitioners within the time stipulated in the OTS letter. Therefore, it was argued by the learned counsel for the Bank that the OTS is treated as failed and the Bank will not entertain the payment of the balance of 95% of the OTS amount.

5. The learned counsel appearing for the petitioners would contend that even before the outer date fixed for settling the entire OTS amount, the amount was offered and it was refused by the Bank, but there is nothing on record to show that the offer was made and the same was refused.

6. In the above circumstances, what remains to be seen is whether the Bank can be compelled to accept the OTS amount which is tendered beyond the date. It is well settled principle that the OTS scheme itself is a non-discretionary and non-discriminatory scheme and offered only once for the benefit of the borrowers. The OTS is always subject to the eligibility criteria mentioned in the OTS scheme.

7. In the case on hand, already one property was sold for Rs.1.71 Crores. According to the learned counsel for the Bank, other property which is secured will fetch more amount. If the Bank is of the opinion that the borrowers are capable of repaying the amount or the secured asset would fetch more amount than the outstanding, then it is open to the Bank to recover the outstanding amount, as the Banks are dealing with public money. The Banks are also expected to take prudent action, considering the fact that they deal with the public money. In the instant case, despite

outstanding being more than 11 Crores, an offer was given for 4.20 Crores which is almost 1/3rd of the amount outstanding which also the borrowers could not make use of. Having delayed in making the payment, the petitioners cannot take advantage of their own wrong and compel the Bank to agree for the OTS scheme.



8. In the light of the above discussion, we are not inclined to entertain the Writ Petitions and the same are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Bala

TO

1) The Authorized Officer,
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(Erstwhile State Bank of Travancore)
No.8, Dr.Ambedkar Road,
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2) The Branch Manager,
The State Bank of India,
(Erstwhile State of Travancore)
No.8, Dr.Ambedkar Road,
Vinayaga Nagar Branch First Floor,
Madurai-625020.

+1 CC to M/s.N.DILIPKUMAR, Advocate ( SR-2264[F] dated 24/01/2022 )

+3 CC to M/s.M.ARUN MURUGAN, Advocate ( SR-2231[F] dated 24/01/2022 )

W.P(MD)Nos.22587 to 22590 of 2021
DATED : 24.01.2022

GM(CO)
KB(16.02.2022) 4P 7C