BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2022

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.(MD).No.23223 of 2021

R.Lakshmi Narayanan ... Petitioner

Vs.

1.The Regional Director,
Reserve Bank of India,
Fort Glacis,
No.16, Rajaji Salai,
Chennai – 600 001.

2.The Authorized Officer,
D.B.S.Bank India Ltd.,
Regional Office,
IInd Floor, Salem Main Road,
Kathaparai,
Karur – 639 006.

3.The Branch Manager,
D.B.S.Bank India Ltd.,
Trichy Main Branch,
1st Floor, Big Bazaar Street,
Trichy. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, by directing the respondents to give time for six months for settling the loan dues through One Time Settlement by waiving the interest amount including penal interest and other charges incurred in the petitioner's loan account, on the basis of the petitioner's representation dated 15.12.2021.

For Petitioner : Mr.G.Ramanathan

ORDER

The Hon'ble Supreme Court had very clearly held by judgment dated 15.12.2021 in ***2021 SCC online SC 1255 in the case of The Bijnor Urban Cooperative Bank Limited, Bijnor & others Vs Meenal Agarwal & others*** that the High Courts have no authority to examine or even direct consideration of one time settlement to any bank.

2. After examining in detail the relevant provisions, it was held as follows:

11.The sum and substance of the aforesaid *discussion would be that no writ of mandamus can be issued by the High Court in exercise of powers under Article 226 of the Constitution of India, directing a financial institution/bank to positively grant the benefit of OTS to a borrower. The grant of benefit under the OTS is always subject to the eligibility criteria mentioned under the OTS Scheme and the guidelines issued from time to time. If the bank/financial institution is of the opinion that the loanee has the capacity to make the payment and/or that the bank/financial institution is able to recover the entire loan amount even by auctioning the mortgaged property/secured property, either from the loanee and/or guarantor, the bank would be justified in refusing to grant the benefit under the OTS Scheme. Ultimately, such a decision should be left to the commercial wisdom of the bank whose amount is involved and it is always to be presumed that the financial institution/bank shall take a prudent decision whether to grant the benefit or not under the OTS Scheme, having regard to the public interest involved and having regard to the factors which are narrated hereinabove.*

12. In view of the aforesaid discussion and for the reasons stated above, we are of the firm opinion that the High Court, in the present case, has materially erred and has exceeded in its jurisdiction in issuing a writ of mandamus in exercise of its powers under Article 226 of the Constitution of India by directing the appellant-Bank to positively consider/grant the benefit of OTS to the original writ petitioner. The impugned judgment and order passed by the High Court is hence unsustainable and deserves to be quashed and set aside and is accordingly quashed and set aside.

3. In the instant case, the bank which is involved is the D.B.S.Bank India Limited which is shown as the second and third respondents. Since the judgment of the Supreme Court is binding on this Court, the Writ Petition stands dismissed.

4. Liberty is granted to the petitioner to approach the second and third respondents directly.

5. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

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.

To

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3.The Branch Manager,
D.B.S.Bank India Ltd.,
Trichy Main Branch,
1st Floor, Big Bazaar Street, Trichy.

+1 CC to M/s.G.RAMANATHAN, Advocate (SR-102[F] dated 04/01/2022)

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03.01.2022

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