



W.A.No.1730 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.A.No.1730 of 2023

B.Satheesh

.. Appellant

Vs.

1. The Regional Director
Reserve Bank of India
Rajaji Salai, Chennai.

2. The Chairman
Corporation Bank
Head Office, Mangala Devi Temple Road
P.B.No.88, Mangalore – 575 001.

3. The Manager
Corporation Bank
Whites Road, Chennai – 600 014.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 26.10.2022 in W.P.No.16446 of 2017.

For the Appellant : Ms.Ambili Menon.P



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JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The impugned writ petition was filed before the learned Single Judge by the appellant seeking a direction against the Bank to shift the petitioner's loan account from fixed rate of interest to floating rate of interest with effect from May, 2009 and to consequentially recalculate the EMI by applying the floating rate of interest from May, 2009.

2. Learned counsel for the appellant submits that the agreement between the parties provided for change of scheme from fixed rate of interest to floating rate of interest. The Bank was duty bound to apply the same. The appellant has been running from pillar to post but it was of no avail. The appellant approached the Banking Ombudsman, however, the Banking Ombudsman did not take cognizance of the complaint given by the appellant. Earlier also, the appellant approached this Court. This Court directed the parties to settle the dispute. In the impugned order also, this Court has directed for settlement and if settlement is not arrived within



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one week, granted liberty to the Bank to proceed.

3. The appellant could not have invoked the writ jurisdiction for the relief as sought. The Bank had already initiated action under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 by issuing demand notice. The same finds place in the affidavit filed by the appellant.

4. In case, action is initiated by the Bank under the Act, all defences are available with the appellant to be raised while defending the action of the Bank under Section 13(4) of the Act.

5. According to the learned counsel for the appellant, the appellant is ready to settle the amount as per the account given by the Bank.

6. Writ jurisdiction cannot be invoked for such purposes. If the



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parties have decided to settle the dispute, they are entitled to settle it. However, Court's interference in the matter on the present set of facts is not warranted.

7. The appellant is free to approach the Banking Ombudsman and if the appellant approaches the Banking Ombudsman, it is for the Banking Ombudsman to take appropriate decision on the complaint of the appellant.

8. With these observations, the writ appeal is disposed of. There will be no order as to costs. It is made clear that the appeal is not decided on merits, the contentions of the appellant are kept open. Consequently, C.M.P.No.15279 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)
18.07.2023

Index : Yes/No
Neutral Citation : Yes/No

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To

1. The Regional Director
Reserve Bank of India
Rajaji Salai, Chennai.



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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESEVALU, J.

(drm)

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