



W.A.No.1674 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.9.2023

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.1674 of 2019 and
C.M.P.No.11310 of 2019

Southern Gold Pvt. Ltd.
Rep by its Director Mr.Collins
C.A 2/573-A-1 Christopher Nagar,
Ancherry P.O., Thrissur- 680006. ... Petitioner/Appellant

Vs.

- 1 The Chief Manager,
Bank of India, Chennai Bullion Banking
Branch, 6th Floor, Prasanth Real Gold Tower,
North Usman Road, Chennai-600017
- 2 Federal Bank Ltd.,
Ernakulam North Branch, Banerji Road,
Ernakulam North, Cochin 682018. ... Respondents/Respondents

Writ Appeal filed under Section 15 of Letters Patent to set aside the order passed in W.P.No.29607 of 2018 dated 1.04.2019 on the file of this Court.

For Appellant : Mr. Anirudh Krishnan for
Mr.Sasank Iyer &
Ms.Anisha Chandrakumar
For Respondent No.1 : Mr.R.Umasuthan
For Respondent No.2 : No appearance



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JUDGMENT

D.KRISHNAKUMAR, J.

The instant appeal arises out of the order passed by the learned Single Judge dated 1.4.2019 in W.P.No. 29607 of 2018.

2. The learned counsel appearing for the appellant raised various grounds challenging the order passed by the writ Court and contended that the writ petition is maintainable under Article 226 of the Constitution of India and also stated that the claim made by the respondents is illegal and hit Sec.23 of the Indian Contract Act.

3. Learned counsel appearing for the respondents objected by stating that the writ petition is not maintainable under Sec.226 of Constitution of India. Learned counsel appearing for the respondents has submitted that pursuant to the order passed in the writ petition, the respondent Bank approached the Debt Recovery Tribunal by filing application in O.A.No.817 of 2019 on the file of Debt Recovery Tribunal II. Subsequently, the said application was transferred and pending on the file of Debt Recovery Tribunal III as O.A. No.1823 of 2019 claiming Rs.29,78,81,300.42. It is also brought to the notice of this Court that the tribunal has taken note of the interim order passed by this Court in the aforesaid appeal and no further adjudication taken place in the said claim.



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4. We have carefully perused the order passed by the learned Single Judge. The learned Single Judge dismissed the writ petition by holding that the petitioner has to seek remedy before the appropriate forum.

5. The learned counsel appearing for the parties have agreed that all the grounds raised in the present appeal will also be agitated before the Debt Recovery Tribunal in O.A.No.1823 of 2019. The learned counsel appearing for the appellant seeks liberty to file reply statement as well as counter claim in the said O.A.

6. In view of the above, this Court is of the view that the writ petition is not maintainable and consequently, the writ appeal is dismissed with liberty to the appellant to seek remedy before the Debt Recovery tribunal by filing reply statement as well as counter claim with appropriate application before the tribunal. No costs. Connected miscellaneous petition is closed.

(D.K.K.J.) (P.B.B.J.)
12.9.2023

Speaking/Non Speaking order
Index: Yes
vaan



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**D.KRISHNAKUMAR, J
AND
P.B.BALAJI. J.**

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To

- 1 The Chief Manager,
Bank of India, Chennai Bullion Banking Branch, 6th Floor,
Prasanth Real Gold Tower, North Usman Road, Chennai-600017
- 2 Federal Bank Ltd.,
Ernakulam North Branch, Banerji Road, Ernakulam North, Cochin 682018.

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