



W.P.No.23677 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.23677 of 2018
and
W.M.P.No.27621 of 2018

S.Manoharan

... Petitioner

Vs.

1.IDBI Bank Limited,
Represented by its Branch Manager,
T-Nagar Branch,
“Devi Arihant” New No.24/2, Old No.16,
Dr.Nair Road, T.Nagar,
Chennai – 600 017.

2.The IDBI Bank Ltd.,
Rep. by its Executive Director,
IDBI Tower, WTC Complex,
Cuffee Parade, Colaba,
Mumbai – 400 005.

3.HDFC Bank Ltd.,
Chennai Velachery Branch,
137, KG Bellaire, 100 ft By Pass Road,
Chennai – 600 042.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
for issuance of a Writ of Certiorarified Mandamus, calling for the records



W.P.No.23677 of 2018

relating to the order passed by the first respondent dated 05.12.2017 in Ref.No.IDBI/ /TO/MIS-01/2017-18, quash the same and consequently, direct the first respondent to release the charge over the properties belonging to the petitioner, mortgaged to the first and second respondents.

For Petitioner : Mr.Niranjan Rajagopalan
for M/s.G.R.Associates

For Respondents : Mr.Ilayaraj Kumar
for Ramalingam & Associates
[R1 & R2]
M/s.Doss Associates [R3]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the first respondent dated 05.12.2017 in Ref.No.IDBI/ /TO/MIS-01/2017-18, quash the same and consequently, direct the first respondent to release the charge over the properties belonging to the petitioner, mortgaged to the respondents 1 and 2.

2. The case of the petitioner is that, the respondents-Bank is a public sector bank and the major shares are owned by the Central Government and they are amendable to the writ jurisdiction in terms of Article 12 of



W.P.No.23677 of 2018

Constitution of India. However, there was a loan dispute in between the petitioner and the respondents-Bank, for which, the petitioner filed two writ petitions before this Court in W.P.Nos.19456 of 2017 and 27815 of 2017. Both the writ petitions came to be dismissed on 08.03.2023 for imposition of foreclosure and failure to return the title deed in favour of the petitioner. However, levy of foreclosure penalty was upheld by this Court and return of documents was also ordered by this Court on payment of entire amount, thereby, the respondents insisted the petitioner to pay litigation costs of Rs.4,00,000/- without releasing the charges. In order to release the charges in favour of the petitioner, the petitioner paid a sum of Rs.4,00,000/- and given undertaken. Even thereafter, the respondents-Bank refused to release the charges and passed the impugned order dated 05.12.2017. Challenging the same, the above Writ Petition is filed.

3. The learned counsel for the petitioner submits that, the first respondent has no authority in law or right under the agreement to claim litigation charges from the petitioner for instituting proceedings against them. He also submits that the foreclosure money as claimed by the respondent Bank has already been paid, even thereafter, the first respondent



W.P.No.23677 of 2018

denied to release the charge on the properties, which is completely unfair and vindictive. Accordingly, he prays for appropriate orders.

4. The learned counsel appearing for the respondents 1 and 2 submits that, though the impugned order was issued by the first respondent, whereas, the petitioner filed writ petition before this Court in year 2018. Prior to filing the writ petition, the petitioner paid the entire amount of Rs.4,00,000/- and given undertaking affidavit on 14.07.2018 and specifically undertaken that he has no objection in bearing the litigation costs of Rs.4 lakhs for filing the above writ petition as against the respondents and also given undertaking that he would not be subjected to present or future litigations and is paid without any objection or protest from any side and non-refundable even in the event of his success in the writ petition. He also submits that by giving such an undertaking before the respondents, the petitioner has no right to file present writ petition before this Court. Accordingly, he prays for dismissal of the writ petition.

5. Heard the learned counsel appearing on either side and perused the materials available on record.



W.P.No.23677 of 2018

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6. Admittedly, the petitioner paid the entire amount of Rs.4 lakhs with the respondents as litigation charges and also filed an undertaking affidavit dated 14.07.2018. Hence, this Court, is of the view that, rendering any opinion on the merits of the case would adversely affect the interest of the petitioner.

7. Accordingly, the Writ Petition is dismissed granting liberty to the petitioner to work out the remedy before the competent Civil Court in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

20.06.2023

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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W.P.No.23677 of 2018

M.DHANDAPANI, J.

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W.P.No.23677 of 2018
and
W.M.P.No.27621 of 2018

20.06.2023