



WEB COPY



W.P.No.17690 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **14.02.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.17690 of 2022

N.Bharanidharan

... Petitioner

versus

1.Union of India
Rep. by General Manager
Reserve Bank of India
Fort Glacis, Kamarajar Salai
Chennai-600 001.

2.The Banking Ombudsman
C/o Reserve Bank of India (Banking Office)
Fort Glacis, Chennai 600 001.

3.Credit Manager-BBG
HDFC Bank Ltd
1075, 8th Cross, 100 ft. Road
Indira Nagar, Bengaluru-560 038.

4.Zonal Head -BBG
HDFC Bank Ltd, 8th Floor
115, Dr.RadhaKrishnasalai
Opp City Centre, Chennai.

5.Relationship Manager
HDFC Bank Ltd
No.141, Sathy Road
Kandakottam Building II Floor
Erode-638 003.

... Respondents



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Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus directing respondents 1 and 2 to take action against the respondents 3, 4 and 5, by considering the petitioner's complaint dated 22.06.2022 for release the petitioner's properties from hypothecation, by accepting the withdrawal of the petitioner's guarantee.

For the Petitioner : Mr.M.Venkadesh Kumar

For the Respondents : Mr.C.Mohan,
for M/s.King and Partridge,
for respondents 1, 3 to 5

Mr.T.Poornam,
for the second respondent

ORDER

The writ petition has been filed in the nature of a mandamus seeking a direction against the first and second respondents particularly, the second respondent/banking Ombudsman of Reserve Bank of India to take action against the third, fourth and fifth respondents, who are officials of the HDFC bank and to consider the complaint of the petitioner dated 22.06.2022.

2. I must readily accept that the relief sought in the writ petition is not either happily or properly worded. But any way having had the benefit of hearing the learned counsels, let me mould the relief and pass an order.



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3. The petitioner had stood guarantee to loan sanctioned to M/s. Bharani Velli Malligai by HDFC bank. No further information is given.

4. The relief that he seeks is that he wants to withdraw from the guarantee. A guarantee is a contract entered into by the petitioner with open eyes. It is not a paper which can be frustrated by the petitioner at his whims and fancies. There are two persons who had signed the contract and it is also dependent on the HDFC officials to agree to the petitioner rescinding from the contract. There is also the principal borrower to be taken into consideration. He must also have to accept to the fact that the guarantor seeks to be discharged. He has to necessarily produce another guarantor to stand guarantee for the loan which he had obtained. These are all aspects of the agreement entered into by the petitioner, principal borrower and the HDFC.

5. I am informed that the representation given by the petitioner herein had been disposed of by an order dated 08.08.2022. It is stated that the petitioner can take up the matter before the higher authorities. But let me now direct the petitioner herein to approach the officials who had issued the loan in HDFC.

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6. Any official in HDFC bank, more particularly the fourth respondent may explain to him the possibility of his intention to withdraw from the guarantee becoming a reality. If it is possible, the fourth respondent may permit it. If it is not possible the fourth respondent will have to reject the request.

7. I am confident that the fourth respondent would be aware of the rules and regulations and also his responsibility in protecting monies lent and keep all these factors in consideration and then pass necessary orders.

8. The petitioner may approach the fourth respondent on any working day in the first week of March, 2023 and give a proper representation. When he goes, he must also be accompanied by the principal borrower and with an alternate guarantor.

8. Writ petition stands disposed of. No costs.

14.02.2023

Index: Yes/no
mrn



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To

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1.The General Manager
Reserve Bank of India
Fort Glacis, Kamarajar Salai
Chennai-600 001.

2.The Banking Ombudsman
C/o Reserve Bank of India (Banking Office)
Fort Glacis, Chennai 600 001.



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C.V.KARTHIKEYAN, J.
(mrn)

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