



W.P.No.22099 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.22099 of 2023

S.Balasubramanian

.. Petitioner

Vs.

The Chief Manager/Authorised Officer
Mylopore Branch II Canara Bank
(Previously Syndicate Bank)
27/28, Dowlani Towers
Radhakrishnan Road
Mylapore, Chennai 4.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari calling for the records of the respondent relating to the impugned order of Chief Judicial Magistrate, Tiruvallur Crl.M.P.39720/2022 dated 28.02.2023 and quash the same as illegal.

For the Petitioner : Mr.M.Dharani dharan

For the Respondent : Mr.M.A.Abdul Wahab
For M/s.K.V.Subramanian
Associates



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ORDER
(Made by the Hon'ble Chief Justice)

We have heard Mr.M.Dharani Dharan, learned counsel for the petitioner and Mr.M.A.Abdul Wahab, learned counsel for the respondent.

2. According to the petitioner, the petitioner has not signed any document as guarantor, nor executed any mortgage deed in favour of the respondent bank.

3. Learned counsel for the petitioner submits that the petitioner executed the mortgage deed as a borrower, but has not received any amount from the bank. The petitioner has not signed the Guarantee agreement. The signature in the Guarantee Agreement is not of the petitioner. The said signature is a forged one.

4. The respondent bank has placed on record the Guarantee covering letter and the Guarantee agreement allegedly signed by the



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petitioner. The mortgage deed is created by the petitioner. However, the bank submits that the name of the petitioner is wrongly mentioned as borrower, but he is the guarantor of the borrower M/s. Universal Oil Corporation through its Proprietor Mr.M.Umar Sharif.

5. The petitioner has not filed any criminal case with regard to the forged signature in the Guarantee Agreement. If the petitioner feels that the signature is a forged one, he is at liberty to take appropriate action.

6. The whole petition is based on disputed questions of fact. The respondent bank has filed an Original Application. As contended by learned counsel for the respondent bank, the petitioner can raise all the contentions in the said pending O.A.

7. The petitioner is also at liberty to assail the order passed under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 before the appropriate forum. In that event, all contentions are kept open.



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8. The petitioner shall remain present in the respondent bank on 16.10.2023 at 11.00 a.m. The respondent bank shall provide the statement of accounts to the petitioner.

9. The writ petition is disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.21500 & 21502 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

12.10.2023

Index : Yes/No
Neutral Citation : Yes/No

kpl

To

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