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W.P.No.30044 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.30044 of 2022
and WMP.No.29452 of 2022

1.R.Muthukumaran
2.J.Saktivel

.. Petitioners

Vs

1.The City Union Bank Ltd.,
Head Office : No.24B
Gandhi Nagar
Kumbakonam – 612 001.

2.The Senior General Manager
City Union Bank
T.Nagar Branch
Chennai – 600 017.

3.The Branch Manager
City Union Bank
Thirupati Branch
Thirupati.

4.D.G.Nishanth

.. Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents 1 to 3 to release the properties on the payment of dues in Loan Account Nos.502020010016612, 501812080071514, 501812080082059 without insisting NOC and pass orders as this Court deem fit and proper in the circumstances of the case.

For Petitioners : Mr.T.Mohan
for Mr.G.Muthukumar

For Respondents : Mr.Ananda Gomathy
for R1 to R3

ORDER

The petitioners herein are the two among three partners of a firm viz., M/s.Srinidhi Trading Company at Tirupathi, and the third partner is the fourth respondent . The firm is indebted to the third respondent-Bank. Of all the three partners, one is now gone missing and is not traceable. The remaining partners have been negotiating with the Bank for 'One Time Settlement' [OTS]. Indeed, sometime during last year, the Bank has also agreed upon the terms of the OTS, but insisted the petitioners to produce NOC from the other partner who has gone missing.



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2. The first respondent had filed its counter whereas this respondent lists certain liabilities and quantifies the same.

3. The counsel for the petitioners on his part would submit that since a consensus was arrived under OTS scheme last year, it may have to be now reviewed, and the petitioners are now willing to approach the third respondent-Bank for *denovo* consideration of the OTS. This apart, the learned counsel also submitted that instead of NOC, the partners are willing to execute an indemnity, and that one of the title documents of the missing partner is also with the Bank.

4. Without getting into the negotiations relating to OTS or absence of it, this Court merely requires, as and when the time arises for resolving the transaction as between the existing partners of the firm and the respondents, the respondents are only required to obtain an indemnity from the existing partners of the firm as concerning the documents that they might be under an obligation to release on settlement.



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5. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Speaking order / Non-speaking order
ds

Note : Issue order copy on 20.07.2023



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N.SESHASAYEE.J.,

ds

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