



WP No.31945 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2023

CORAM

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

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

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Shanthi Sivaswamy

: Petitioner

Vs

The Authorised Officer
Indian Overseas Bank
Kilpauk Branch
No.477, Kilpauk Garden Road
Chennai-10.

: Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents to pay the interest at the rate of 10 percent p.a (Simple interest) on Rs.4.48 crores from 29.04.2013 (date of deposit) to 03.02.2020 the date on which payment was made in the Contempt Petition amounting to Rs.1,17,35,274/- (Rupees One Crore Seventeen Lakhs Thirty Five



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thousand Two hundred and Seventy Four only) as ordered by the DRT-III in S.A.No.227 of 2012 on 25.06.2018 as confirmed in R.A (SA) Nos.141 and 143 of 2019 by the DRAT Chennai on 06.09.2019 and further directed by the Honourable High Court in W.P. No.30710 of 2019 on 18.11.2019.

For the Petitioner : Mr.K.Selva Kumar

For the Respondents : Mr.F.B.Benjamin George

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.K.Selva Kumar, learned counsel for the petitioner and Mr.F.B.Benjamin George, learned counsel for the respondent.

2. According to the learned counsel for the petitioner, the respondent-bank was supposed to refund the excess sale proceeds with interest at 10% per annum as per the order passed by the Debts Recovery Tribunal, confirmed by the Debt Recovery Appellate Tribunal and by this Court. However, the respondent-bank did not pay the



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amount. The petitioner filed a contempt petition. In the contempt petition, demand drafts were tendered and thereafter, the contempt petition was disposed of. However, at that time, the petitioner did not realise that the amount that was paid by the respondent-bank was not with interest at 10% per annum. Thereafter, notice was given by the petitioner to the bank for payment of balance interest of Rs.98,59,045/- (Rupees Ninety Eight lakh Fifty Nine Thousand and Forty five only). The same is not paid.

3. The contempt petition is disposed of by the Division Bench of this Court under order dated 06.02.2020 recording that the bank has produced demand draft for a sum of Rs.2,26,80,945/- (Two Crore Twenty Six Lakh Eighty thousand and Nine Hundred Forty Five only) and Rs.4,48,00,000/- (Rupees Four Crore and Forty Eight lakh only) in favour of the petitioner towards refund of the excess money realised by the bank on the sale of the property, along with interest. In view thereof, the contempt petition was disposed of.

4. It would not be possible to consider the grievance of the petitioner in a fresh writ petition again, when observations were made



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by this Court in a contempt petition.

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5. In light of that, we dispose of the writ petition. There will be no order as to costs.

6. If the petitioner has any remedy available in any proceedings, the petitioner may avail the same as may be permissible in law.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU, J.

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