



W.P(MD)No.562 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.562 of 2023
and
W.M.P(MD)No.566 of 2023**

Gunaseelan

... Petitioner

VS.

1.The Regional Manager,
Indian Overseas Bank,
Cantonment,
Trichy.

2.The Manager,
Indian Overseas Bank,
Manthurai Branch,
Lakshmi Priya Building,
121, Main Road,
Manthurai,
Lalgudi,
Trichy.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, relating to the impugned proceedings of the respondent on 06.12.2022 and direct the respondents to consider the representation for arriving at amicable settlement under One Time Settlement policy of the respondents.

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For Petitioner : Mr.S.Ramanathan
For Respondents : Mr.R.Pandivel
Standing Counsel

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The prayer in this Writ Petition is seeking for issuance of a Writ of Mandamus, relating to the demand notice issued by the respondent on 06.12.2022 and directing the respondents to consider the representation of the petitioner for arriving at amicable settlement under One Time Settlement policy of the respondents.

2.According to the petitioner, he availed educational loan from the respondent Bank for pursuing his son's higher studies on 09.02.2010 for an amount of Rs.10,60,101/-, by mortgaging his house property as collateral security for the said loan. The petitioner's son got a job in Chennai for a meagre salary and he is not in a position to repay the outstanding due amount to the respondent Bank. The petitioner was also hospitalized and he had spent a huge amount on medical expenses. While that being so, the respondent Bank has declared the said loan as NPA. Further, the respondent



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Bank has issued a demand notice under Section 13(2) of the SARFAESI Act.

The petitioner made a representation to the respondent Bank to consider his request to settle the outstanding due amount under the OTS scheme, but the same has not been considered. The respondent vide letter, dated 06.12.2022 is demanding a sum of Rs.37,20,955.33/- as against the principal amount of Rs.10,60,101/-.

3.The learned counsel appearing for the petitioner submitted that the petitioner agreed to settle the aforesaid amount under the OTS scheme. Therefore, the petitioner made a request for the OTS scheme before the respondent Bank, but the same has not been considered. Hence, the petitioner has filed the present Writ Petition.

4.The learned counsel appearing for the respondent Bank submitted that only 13(2) notice has been issued and so far, 13(4) notice has not been issued by the respondent Bank. Therefore in the light of the provisions under Section 13(3A) of the SARFAESI Act, if a fresh proposal is submitted by the borrower, the same shall be considered by the respondent Bank in accordance with law.



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5.Considering the facts and circumstances of the case, we direct the petitioner to submit a fresh proposal to the respondent Bank under Section 13(3A) of the SARFAESI Act by raising all the grounds including the settlement of the amount under the OTS scheme within a period of two weeks from the date of receipt of a copy of this order. On receipt of such proposal, the respondent Bank is directed to consider the same and pass appropriate orders on merits and in accordance with law, including the OTS scheme by considering the facts and circumstances of the case, within a period of four weeks thereafter.

6.With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
10.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes



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D.KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
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