



W.P.(MD)No.16989 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.16989 of 2023

and

W.M.P.(MD)No.14220 of 2023

A.Nagarathinam

... Petitioner

versus

1. The Regional Manager,
State Bank of India,
Dindigul Main Road,
No.1, Salai Road,
Ashok Nagar,
Dindigul, Dindigul District.

2. The Branch Manager,
State Bank of India,
Vadamadurai Branch,
Vadamadurai,
Trichy Main Road,
Dindigul District.

3. Ramya

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Mandamus, to direct the



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respondents 1 and 2 herein to take suitable action against the 3rd respondent herein for recovery of the balance loan amount outstanding in the account of deceased Raja in his loan Account No. 00000037476634737 on the basis of the petitioner's representation dated 23.06.2023 within the stipulated time by this Court.

For Petitioner : Mr.S.Paul Murugesh

For R1 and R2 : Mr.C.Karthick,
Standing Counsel

ORDER

The petitioner is working in the Indian Railways. His colleague one Raja, the husband of the third respondent, has borrowed a personal loan from the respondent Bank. The petitioner stood as a Guarantor. The borrower Raja died on 22.11.2019. Thereafter, the Bank has taken steps to attach the salary of the petitioner.

2. The grievance of the petitioner is that the legal heirs of the deceased Raja are very much available. Instead of taking action against the legal heirs of the deceased Raja, the Bank is initiating action as



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against him. Therefore, he filed this writ petition for a Mandamus, directing the first and second respondents to initiate action as against the 3rd respondent, for recovery of the balance loan amount.

3. As per Section 126 of Indian Contract Act, the person who gives the guarantee, has to perform the promise on discharge the liability of the Principle Debtor. The petitioner, being a guarantor in a tripartite loan agreement with the respondent Bank, cannot escape from the liability of the Principle.

4. In view of the above, this Court is not inclined to entertain this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14.07.2023

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



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B.PUGALENDHI, J.

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