



W.P.(MD)No.25139 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 17.10.2023

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THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**  
AND  
THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

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Rajapandian

...Petitioner

-Vs.-

1.The Authorized Officer,  
LIC Housing Finance Ltd.,  
Madurai Area Office,  
No.3, 1st Floor,  
Jeevanjyothi LIC Building,  
West Marat Street,  
Madurai – 625 001.

2.The Branch Manager,  
LIC Housing Finance Ltd.,  
Madurai Area Office,  
No.3, 1st Floor,  
Jeevanjyothi LIC Building,  
West Marat Street,  
Madurai – 625 001.

3.The Deputy Regional Manager (Recovery),  
LIC Housing Finance Ltd., (Regional Officer)  
Harrington Changers,  
No.30/1A, Block Complaint,  
2<sup>nd</sup> Floor Abdul Razack,  
1st Street, Saidapet,  
Chennai – 600 015.

...Respondents



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PRAYER:- Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to consider the One Time Settlement (OTS) Scheme to the petitioner's loan Account No.21240036408 as per the circular issued by the Reserve Bank of India in RBI/2023-24/55 DOR.MCS.REC. 3201.01.003/2023-24 dated 18.08.2023 on the basis of the petitioner's representation dated 01.12.2022.

For Petitioner : Mr.A.P.Muthupandian

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**ORDER**

(Order of the Court was made by **S.M.SUBRAMANIAM, J.**)

Writ of Mandamus has been instituted to direct the respondents to consider the One Time Settlement (OTS) Scheme to the petitioner's loan Account No.21240036408 as per the circular issued by the Reserve Bank of India in RBI/2023-24/55 DOR.MCS.REC. 3201.01.003/2023-24 dated 18.08.2023, on the basis of the petitioner's representation dated 01.12.2022.

2. Mere direction to consider such representation would do no service to the cause of justice. Contrarily, litigants are back again to the High Court, challenging the rejection order. Such multiplicity of



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proceedings are unwarranted in view of the fact that discretionary reliefs are to be granted in just cases, where gross injustice has been identified or actions are shocking to the conscious of the Court.

3. Contractual obligations cannot be adjudicated in a Writ jurisdiction. Borrowing loan or the loan transactions are contract between the financial institution and the borrower, which all are regulated through various enactments. Thus, usurping the powers of the financial institution by exercising the powers of judicial review under Article 226 of the Constitution of India would cause prejudice to the interest of the financial institution while dealing with the public funds. This exactly is the reason why the Constitutional Courts across the country has repeatedly held that the writ jurisdiction cannot be exercised in contractual matters, more specifically relating to the financial institutions. The terms and conditions of the contracts are to be enforced in the manner known to law and therefore, the very relief sought for in the Writ Petition is not entertainable.

4. In the event of issuing any such directions to the financial institutions, they may not be in a position to recover the dues which



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would result in financial loss to the banks. Thus, the Courts are expected to be cautious while exercising the power of discretion, which is expected to be exercised in a judicious manner so as to ensure that the other parties are not prejudiced nor their financial interests are affected.

5. Admittedly, in the present case, Reserve Bank of India, by the above stated circular dated 18.08.2023, issued instructions and under clause 3(viii), it is stated that the instructions shall come into effect from January, 1, 2024. That being the factum, the petitioner is at liberty to workout his remedy as per the RBI Circular or under the relevant Special Circulars or through enactment or through negotiation with the financial banks. However, the Writ Petition is not entertainable and accordingly, stands dismissed. No costs.

**[S.M.S.J.] & [V.L.N.J.]**  
**17.10.2023**

NCC :Yes/No  
Index :Yes/No  
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**AND**  
**V. LAKSHMINARAYANAN, J.**

SJ

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