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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **14.03.2024**

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.No.221 of 2022
and C.M.P.No.1137 of 2022

Geetha .. Petitioner

Versus

Indian Overseas Bank,
Rep. by its Senior Manager,
Perambalur Branch .. Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code against the fair and decretal order in E.P.No.21/2020 in L.A.No.194/2016 on the file of the Subordinate Judge, Perambalur dated 08.09.2021.

For Petitioner : Mr.V.Raghavachari,
For Mrs.V.Srimathi

For Respondent : Mr.T.Aravindaraj

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ORDER

Challenging the decretal order made in E.P.No.21/2020 in L.A.No.194/2016 on the file of the Subordinate Judge, Perambalur dated 08.09.2021, the present revision has been filed.

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2. The petitioner herein, is a third party to a loan transaction, which was purported to have been advanced by the respondent Bank to the husband of the petitioner. It is averred in the petition that the petitioner's husband died on 10.06.2015. A notice was sent in the name of the deceased husband to the petitioner, by the respondent Bank, intimating to appear before the Lok Adalat, pertaining to pre-litigation case in No.194/2016 in connection with the loan facility extended to the petitioner's husband by the respondent Bank.

3. On 22.06.2016, a Lok Adalat Award came to be passed in the pre-litigation case No.194/2016 and as per the said Award, the petitioner was directed to pay the balance amount of Rs.3,49,500/- on or before 31.10.2016. Since the petitioner did not pay the aforesaid amount to the respondent Bank, the respondent Bank had initiated E.P. in E.P.No.21/2020 for attachment and sale of immovable property of the petitioner's husband.

4. The Court below, vide order dated 08.09.2021, allowed the petition filed by the respondent Bank by holding that, already a Lok Adalat Award has been passed by directing the respondent to pay a sum

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of Rs.3,49,500/- on or before 31.10.2016 and since the petitioner did not pay the same, the Award has to be executed and ordered for attachment and sale of immovable property of the petitioner's husband. Aggrieved against the same, the petitioner has preferred the present revision.

5. According to the learned counsel for the petitioner, the Lok Adalat, while passing the Award on 22.06.2016, has strangely observed that the matter has been amicably settled between the parties in the Lok Adalat held on 22.06.2016 and the petitioner has agreed to pay Rs.3,49,500/- on or before 31.10.2016 and the petitioner has rendered her signature on behalf of her deceased husband at the Lok Adalat. Whereas, according to the learned counsel for the petitioner, the petitioner has objected to the maintainability of the execution petition on the ground that her husband was no more and an Award has been passed against the dead person, which must be treated as null and void.

6. Furthermore, the Executing Court did not consider the cause title in the settlement memo, wherein the name of the petitioner has not been mentioned and only the name of the deceased Rajamannan, husband of the petitioner, has been mentioned. That being the case, the need to pay

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the amount as indicated in the settlement memo by the petitioner does not arise. The petitioner herein is a stranger to the respondent Bank at the time of appearing before the Lok Adalat, as she has not availed any loan from the said Bank. Therefore, according to the learned counsel for the petitioner, the petitioner will not fall within the term warranting 'resolution or settlement between the parties' to the dispute.

7. Per contra, Mr.T.Aravindaraj, learned counsel appearing for the respondent Bank would submit that since there was non-compliance of Award and non-payment of dues from the petitioner, the respondent Bank filed an Execution Petition in E.P.No.21 of 2020 on the file of Subordinate Judge, Perambalur for attachment of petition mentioned property and for the auction sale of it and from the sale amount, to recover the money dues to the petitioner as per Lok Adalat Award dated 22.06.2016 in pre-litigation case in L.A.No.194 of 2016. Therefore, the said Award is a well-reasoned one and hence, prayed for dismissing the revision petition.

8. Heard the learned counsel for the petitioner and the learned counsel for the respondent Bank and perused the materials placed before this Court.

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9. Perusal of records would show that the petitioner's husband has obtained a loan under the '*Prime Minister Employment Generation Programe Scheme(*PMEGP)*'.* It is a central sector scheme being administered by the Ministry of Micro, Small & Medium Enterprises (MoMSME). The objective of this scheme is to generate employment in rural as well as urban areas through setting up of new self-employment ventures/projects/micro enterprises. The own contribution of the beneficiary is 10% of the project cost in case of general category and 5% of the project cost in case of reserved category (SC/ST/OBC/PH/Women/Ex Servicemen/ NER) beneficiaries.

10. In the present case on hand, the petitioner's husband, who was the borrower, has contributed Rs.1,00,000/- for the sanctioned loan amount of Rs.9,00,000/- with subsidy of Rs.3,32,000/-. The petitioner's husband had been paying the monthly dues promptly from the year 2011 onwards till his death and there has been no default reported by the respondent Bank. Due to his sudden demise on 10.06.2015, the account was classified as Non-Performing Asset (NPA) on 31.03.2016.

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11. Since the petitioner has not paid back the sum borrowed by her husband, the respondent Bank has taken up the matter before the Lok Adalat, organised by Legal Services Authority District Court Buildings, Perambalur in L.A.No.194 of 2016. As per '*Prime Minister Employment Generation Programe Scheme(*PMEGP)*',* no collateral security will be insisted upon by Banks in line with guidelines of RBI for loans upto Rs.10.00 lakh. The submission made by the learned counsel for the petitioner that the petitioner is an illiterate and she was not a party to the Settlement Memo filed before the Lok Adalat finds much force. Merely taking into consideration the signature of the petitioner made before the Lok Adalat, who has signed on behalf of her deceased husband, shall not bind any liability of the debts incurred by the petitioner's husband, when the petitioner herself is unaware of the legal proceedings initiated against her deceased husband.

12. This Court, in a similar case of ***S.Suhaina Banu and others vs Indian Bank and others*** in W.P.No.27230 of 2009 vide order dated 01.12.2010, the legal heirs of the deceased-guarantor were granted relief by holding that initiating action against a dead person cannot be

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sustained in the eye of law and has declared the entire proceedings initiated by the respondent-Bank against the dead person as invalid and has allowed the petition in favour of the legal heirs of the deceased-guarantor.

13. In the considered opinion of this Court, since the petitioner is an illiterate and is also not a party to the Settlement Memo of the Lok Adalat and also considering that the petitioner has not been substituted as a legal heir of the deceased borrower in the Lok Adalat proceedings, this Court deems it fit to set aside the order made in E.P.No.21/2020 in L.A.No.194/2016 on the file of the Subordinate Judge, Perambalur dated 08.09.2021. Accordingly, the Civil Revision Petition is Allowed. No costs. Consequently, connected miscellaneous petition stands closed.

14.03.2024

Index: Yes / No
Internet : Yes / No

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To:
1. The Subordinate Judge,
Perambalur.

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J.NISHA BANU, J.

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Order made in
C.R.P.No.221 of 2022

Dated:
14.03.2024