IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.12230 of 2024

N.Arasakumar .. Petitioner

v.

Authorised Officer
Axis Bank Ltd.,
Legal and Support Team
2nd Floor, Door No.31, Old No.14
South Mada Street
Mylapore, Chennai 600 004 .. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned notice dated 23.04.2024, quash the same and grant consequential relief of directing the respondent to consider petitioner's reply letter dated 08.02.2024 under Section 13(3-A) of SARFAESI Act.

For Petitioner :: Mr.K.V.Muthu Visakan

ORDER
(Order of the Court was made by S.S.SUNDAR,J.)

This writ petition is filed challenging the possession notice dated 23.04.2024 issued by the respondent under Rule 8(1) of the Security Interest (Enforcement) Rules, 2002. The petitioner has an effective alternative remedy of filing a Sarfaesi Application as against the possession notice and therefore this Court is not inclined to entertain the writ petition.

2. The learned counsel appearing for the petitioner would submit that the loan was obtained by the petitioner's wife by name Mrs.J.Suriya, a qualified Chartered Accountant, who was employed as a Manager in the Funds and Resources Department at Tamil Nadu Industrial Investment Corporation Ltd (TIIC).

3. The fact that the petitioner's wife had obtained the loan and that the petitioner is also a co-applicant is not in issue. However, the petitioner has come forward with a story that the petitioner's wife has obtained a policy at the instigation of the respondent and that on the death of the petitioner's

wife, the insurance company rejected the claim and therefore the petitioner has questioned the respondent's action under the SARFAESI Act.

4. This Court is unable to entertain this writ petition on the ground that the insurance claim was rejected on invalid grounds and that therefore the petitioner should be given relief as against the respondent Bank for recovery of the loan. This Court finds that the petitioner has to independently establish his claim as against the insurance company. Since the Bank is an institution, even if the allegations are against the officials of the Bank or collusion between the Bank and the insurance company in getting the coverage without any commitment to honour the claim in future, the same cannot be adjudicated in this proceeding. The writ petition is, therefore, dismissed. However, it is open to the petitioner to approach the respondent Bank for one time settlement or for re-scheduling the repayment. If a representation is made by the petitioner to the respondent Bank within a period of two weeks from today, the same shall be considered in the light of the settlement guidelines framed by Reserve Bank of India and the decision thereof shall be communicated to the petitioner, within a period of twelve

weeks from the date of receipt of the representation from the petitioner. Till such time the representation of the petitioner is considered on merits by the respondent Bank, the respondent Bank shall not initiate any coercive steps. Consequently, W.M.P.Nos.13326 to 13328 of 2024 are also dismissed.

Index : yes/no (S.S.S.R.,J.) (N.S.,J.)
Neutral citation : yes/no 10.06.2024

ss

To

1. The Authorised Officer
Axis Bank Ltd.,
Legal and Support Team
2nd Floor, Door No.31, Old No.14
South Mada Street
Mylapore, Chennai 600 004

S.S.SUNDAR,J.

AND

N.SENTHILKUMAR,J.

ss

W.P.No.12230 of 2024

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