BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1447 of 2024
and
W.M.P(MD)Nos.1488 to 1490 of 2024

M/s.K.K.O.Mohamed Ibrahim
Educational and Charitable Trust,
Represented by its Managing Trustee,
Dr.M.Anwar Kabir,
Annai College Arts and Science Campus,
Kovilacheri, Kumbakonam,
Thanjavur – 612 503. ... Petitioner

Vs.

1.The Banking Ombudsman,
Reserve Bank of India,
Mumbai – 400 001.

2.The Chief General Manager,
Consumer Education and Protection Department,
Reserve Bank of India,
1st Floor, Amar Building,
Sir P.M.Road,
Mumbai – 400 001.

3.The Chief Manager,
City Union Bank Limited,
NARAYANA, Administrative Office
No:24-B, Gandhi Nagar,
Kumbakonam – 612 001. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to consider the complaint of the petitioner trust against the third respondent bank and to hold an enquiry as to their breach of guidelines, illegal foreclosure of fixed deposits with the statutory authorities and collection of illegal charges and initiate appropriate legal action based on such enquiry.

For Petitioner : Mr.T.Stalin

For Respondents : Mr.K.R.Laxman for R.1 & R.2

Mrs.Ananda Gomathy for R.3

ORDER

Heard both sides.

2.The petitioner wants this Court to direct the Banking ombudsman to pass order on the petitioner's compliant lodged against the third respondent.

3.It is not in dispute that the petitioner had availed loans from the third respondent. The stand of the third respondent is that some of the loan accounts had turned into non performing assets and that recovery action has already been initiated.

4.The learned counsel appearing for the third respondent points out that apart from initiating action under SARFAESI Act, OA has also been filed before the Debts Recovery Tribunal. The RBI / integrity ombudsmen scheme 2021 categorically states that when the cause of action is pending before any Court, tribunal or arbitrator or any other formal authority, complaint on the same cause of action will not lie before the ombudsman. In this case, the third respondent had already moved the Debts Recovery Tribunal against the petitioner for recovery of their dues.

5.The learned counsel appearing for the petitioner strongly asserts that excess charges have been collected and that certain deposits have been illegally preclosed. It is always open to the petitioner to raise his contentions by way of defence in the recovery action initiated by the third respondent. The petitioner cannot preempt the third respondent by lodging complaint before the ombudsman.

6.Leaving open all the defences of the writ petitioner, this writ petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

28.02.2024

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

To

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G.R.SWAMINATHAN, J.

MGA

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