BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2024

CORAM

THE HON'BLE MR.JUSTICE **R.SURESH KUMAR**
AND
THE HON'BLE MR.JUSTICE **G.ARUL MURUGAN**

W.P(MD)No.2233 of 2024

M.Rani ... Petitioner

vs

1.The Authorised Officer,
Life Insurance Corporation of India Housing Finance Limited,
S.S.Tower, 4th Floor,
78/4, Bye Pass Road, Madurai – 625 010.

2.Life Insurance Corporation of India Housing Finance Limited,
Corporate Office,
131, Maker Tower 'F' Premises, 13th Floor,
Cuffer Parde, Mumbai – 400 005,
Maharashtra State. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to consider the petitioner's written representation, dated 02.01.2024 for one time settlement of the petitioner's housing loan account No.540100017216 within a time limit that may be fixed by this Court.

For Petitioner : Mr.S.Srinivasa Ragavan
For Respondents : Mr.V.Veerapandian
for M/s.Vastlaw Associates

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ORDER

(Order of this Court was made by **G.ARUL MURUGAN, J.**)

The Writ Petition is filed to direct the respondents to consider the representation of the petitioner, dated 02.01.2024 submitted in respect of the housing loan account.

2.Heard Mr.S.Srinivasa Ragavan, learned Counsel for the petitioner and Mr.V.Veerapandian, learned Counsel for the respondents and perused the materials available on record.

3.The petitioner along with her husband had jointly availed a housing loan for a sum of Rs.23,80,000/- on 29.07.2020 by executing an equitable mortgage. As there were defaults in repayment of the loan account, the account was classified as non-performing asset and the respondent Bank had issued a demand notice under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest

Act, 2002 (hereinafter referred to as "SARFAESI Act"), on 08.01.2022 calling upon the petitioner to pay a sum of Rs.28,49,402/-. Thereafter, the petitioner had approached the respondent Bank with a proposal for one time settlement and the respondent Bank had also agreed for the one time settlement amount of Rs.26,02,000/-. The petitioner, since her request was orally accepted, had taken a demand draft of Rs.24,00,000/- from Canara Bank on 19.09.2023, but, however, the respondent Bank refused to receive the same, as they had not accepted the settlement of Rs.24,00,000/-. In such regard, the petitioner has also submitted a representation on 02.01.2024 to accept the settlement of Rs.24,00,000/- and since the same has not been considered, she had filed the above Writ Petition.

4.The learned Counsel for the petitioner reiterating the averments made in the affidavit contended that only since the respondent Bank orally accepted the request of the petitioner, they had taken a demand draft for a sum of Rs.24,00,000/-, but now, the respondent Bank has not accepted the demand draft and only due to which, a detailed representation was submitted to the respondent Bank to accept the demand draft of Rs.24,00,000/-.

5.The learned Counsel for the respondent Bank submitted that in respect of the representation submitted by the petitioner, already, the respondent Bank had sent a suitable reply on 12.01.2024 and by submitting the reply sent, he contended that the one time settlement proposal of the petitioner was accepted for a sum of Rs.28,00,000/- and even though the petitioner is aware of the same, instead of making the payment of Rs.28,00,000/- towards the one time settlement, the petitioner is going back and wants the respondent Bank to accept a sum of Rs.24,00,000/-, which is not feasible of compliance and therefore, sought for dismissal of the Writ Petition. The reply, dated 12.01.2024 is extracted hereunder:

> *"Reg: Reply to OTS Request letter pertains to your Loan Account Number - 540100017216*
>
> *Dear Sir/Madam,*
>
> *With respect to your letter dated 02/01/2024, we would like to again inform you that the allegations made by you in your letter were absolutely false, vindictive and solely based on vested manipulative agenda. LIC HFL as a decorated and prime financial institution of the country providing service with utmost commitment and will towards customers. In your case, your loan is in default from initial stage onwards and you came to us for OTS and we clearly communicated to you that, OTS amount will be decided by Competent Authorities and we didn't possess any power to do OTS in your case and as per your request, we had sent OTS request letter to our Competent Authorities for approval*

> *and after thorough verification and considering your current property value, it has been decided that OTS amount is 28 lakhs by the Competent Authority and we duly communicated to you as per our Standard Operating Procedures and Procedure established by law pertains to NBFC and the terms and conditions are stipulated as per the directions of NHB. So your contention is clearly shrewd, devious and inadmissible.*
>
> *So, finally we would like to inform you that please pay the OTS amount of 28 lakhs which was decided by the Competent Authority and Close the loan as soon as possible."*

6.The petitioner and her husband after having availing the housing loan from the respondent Bank had committed default of repayment of the dues for which, the respondent Bank had initiated proceedings under the SARFAESI Act. However, as the petitioner submitted a proposal to settle the loan account through one time settlement, the respondent Bank had accepted the one time settlement for a sum of Rs.28,00,000/-. But the petitioner without making the payment towards the one time settlement for a sum of Rs.28,00,000/- had taken a demand draft for a sum of Rs.24,00,000/- on 19.09.2023 and wanted the respondent Bank to accept the same. Since the demand draft was not taken towards the full amount covered under the one time settlement, the respondent had not accepted the same and the petitioner had sent a representation on 02.01.2024 requesting the respondent

Bank to accept the demand draft for Rs.24,00,000/- and close the loan account. As rightly pointed out by the learned Counsel for the respondent, the respondent Bank had already sent a reply on 12.01.2024 bringing to the notice of the petitioner that the one time settlement for a sum of Rs.28,00,000/- even though had been accepted, the petitioner is only trying to evade the settlement by making the full amount covered under the one time settlement.

7.In so far as the acceptance of the one time settlement proposal is concerned, it is for the respondent Bank/secured creditor to consider and deal with the same. When admittedly, the one time settlement scheme was accepted for a sum of Rs.28,00,000/-, this Court cannot issue any direction to the respondent Bank in respect of considering the one time settlement, when the same has already been considered and granted and the petitioner's representation has also been duly replied. If at all the petitioner still has any grievance, it is for the petitioner to approach the respondent Bank explaining the circumstances for payment of the amount, as offered by the petitioner. In such circumstances, as the representation of the petitioner has already been replied, no further orders are required. It is for the petitioner to pursue with the respondent Bank in respect of the completing the payment under one time settlement.

8.In view of the above, the Writ Petition stands disposed of. However, there shall be no order as to costs.

[R.S.K., J] & [G.A.M., J]
26.06.2024

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

cmr

R.SURESH KUMAR, J.

AND

G.ARUL MURUGAN, J.

cmr

Order made in
W.P(MD)No.2233 of 2024

26.06.2024