



W.P.(MD) No.28240 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.28240 of 2022

P.Selvaraj

... Petitioner

Vs.

1.The Chief Regional Bank Officer,
Union Bank of India,
Madurai Regional Office,
No.72, P.T.Rajan Road,
B.B.Kulam, Narimedu,
Madurai District.

2.The Branch Manager,
Union Bank of India,
Thiruthangal Branch,
Sivakasi Taluk,
Virudhunagar District.

... Respondents



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WEB COPY PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to disburse the balance amount i.e., Rs.11,50,545/- which comes after adjusting the petitioner's home loan pending dues from the sale consideration of Rs.20,52,300/- of the petitioner's dwelling house by considering the representation of the petitioner dated 18.04.2022 and in accordance with law.

For Petitioner : Mr.R.Babu Jaganath

For Respondents : Mr.N.Dilipkumar

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents to disburse the balance amount i.e., Rs.11,50,545/- which comes after adjusting the petitioners home loan pending dues from the



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sale consideration Rs.20,52,300/- of the petitioner's dwelling house by considering the representation of the petitioner dated 18.04.2022 and in accordance with law.

2. The petitioner has availed housing loan from the respondents bank. Due to various reasons, the petitioner has not paid the EMIs to the respondents bank. Hence, the respondents bank has initiated SARFAESI proceedings and sold the house of the petitioner to the tune of Rs.20,52,300/-. According to the petitioner, after adjusting the loan amount, the remaining amount has not been handed over to the petitioner and the same was deposited in the respondents bank. Hence, the petitioner has made a representation on 18.04.2022, seeking to disburse the balance amount. However, the same was not considered. Therefore, he has filed the present Writ Petition.

3. The learned counsel appearing for the respondents bank submitted that while the petitioner was working as a gold appraiser, the petitioner has misappropriated the funds and caused loss to the respondent bank. Hence,



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action has been taken against the petitioner and he was terminated from the service. He further submitted that due to the loss caused to the respondent bank by the petitioner, the respondent bank withhold the balance amount.

4. In response to the aforesaid submissions, learned counsel for the petitioner submitted that there is no legal right for the respondents bank to withhold the balance amount and therefore, the petitioner is entitled to get the balance amount.

5. We have carefully considered the rival submissions and perused the materials available on record.

6. Considering the submissions made by both sides, we are of the view that the respondents have no legal right to withhold the remaining balance amount of Rs.13 lakhs. Therefore, the respondents are directed to disburse the balance amount of Rs.13 lakhs along with interest at the rate of 6% p.a., from the date of amount being paid by the auction purchaser ie., from 01.12.2021, till the



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date of realization of the amount, within a period of six weeks from the date of receipt of a copy of this order. However, for the recovery of the loss caused to the respondents bank, it is for the respondents bank to approach the concerned forum for recovery of the amount from the petitioner.

7. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs.

[D.K.K., J.] [R.V., J.]

05.01.2024

Neutral Citation: Yes / No
Index : Yes / No

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and
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