



WP(MD). No.29931 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 13/12/2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

WP(MD). No.29931 of 2024
and WMP(MD)No.25216 of 2024

A.Marimuthu

... Petitioner

Vs.

1. The General Manager,
And First Appellate Authority,
Indian Overseas Bank,
Central Office, 763, Anna Salai,
Chennai.

2. The Assistant General Manager
and Central Assistant Public
Information Officer (Cpio),
Indian Overseas Bank,
Law Department,Central Office,Chennai.

3. The Branch Manager,
Indian Overseas Bank,
Collectorate Branch,
Dindigul,Dindigul District.

... Respondents

PRAYER :Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, praying for call for records pertaining to the impugned Appellate Order No. A240408 and A240404/2024-25 dated 02.04.2024 passed by the first respondent through his proceedings vide FAA/9013/230/2024-25 and Quash the same as illegal and consequently direct the respondents to



WP(MD). No.29931 of 2024

provide the Account Statement in respect of the petitioner Bank Account No. 183002000000303 holding with third respondent Branch as per the petitioner RTI Application dated 23.02.2024 under Right to Information Act, 2005.

For Petitioner : Mr.T.Indrachithu
For Respondents : Mr.N.Dilip Kumar
Standing Counsel

ORDER

This writ petition is filed for issuance of writ of certiorarified mandamus to quash the impugned appellate order dated 02.04.2024 passed by the first respondent and for consequential direction to the respondents to provide the Account Statement in respect of the petitioner Bank Account No. 183002000000303 holding with third respondent Branch as per the petitioner RTI Application dated 23.02.2024 under Right to Information Act, 2005.

2. The petitioner maintained the bank account in Indian Overseas Bank and was sanctioned loan amount of Rs.94,76,000/- in the year of 2011 under the scheme of CGTMSE. The petitioner was repaying the installment amounts. Due to loss in business, he defaulted in paying installments, the third respondent therefore declared the petitioner's account as non-performing assets and initiated proceeding under SARFAESI Act. The third respondent obtained the petitioner's non



WP(MD). No.29931 of 2024

mortgaged property as per the order passed in Crl.M.PNo.4341 of 2022.

The petitioner filed SA.No.419 of 2022 before the Debt Recovery Tribunal, Madurai and during the pendency of the Second Appeal, the mortgaged property was sold in auction sale and the same was purchased by one Senthilkumar s/o Arunachalam and sale certificate was also issued in his favour.

3. According to the petitioner, the third respondent bank issued false account statements and therefore, the petitioner filed an application to the second respondent under the Right to Information Act on 23.02.2024, seeking the accounts statements from 01.01.2016 to 08.02.2024. The second respondent sent a reply to the petitioner but denied the account statements for account Nos.183003261300002, 183003261300003, 183002000000179, 183003261400003. The petitioner therefore filed First Appeal before the first respondent. The first respondent vide the impugned order dated 02.04.2024 rejected the appeal. Aggrieved by the impugned order, the petitioner filed the above writ petition for the aforesaid relief.



WP(MD). No.29931 of 2024

4. I have given my anxious consideration to the submissions made on either side and perused the materials available on record.

5. It is seen that the petitioner sought for information regarding his account Nos. 183003261300002, 183003261300003, 183002000000179, 183003261400003 with the third respondent branch under the Right to Information Act, vide application dated 23.02.2024. Information sought for was not provided. The petitioner filed the appeal before the first appellate authority and the first appellate authority by the impugned order dismissed the appeal. The petitioner therefore filed the above writ petition. Admittedly, as per Section 19 of the Right to Information Act, the petitioner can challenge the order of the first appellate authority by way of second appeal. The petitioner in this writ petition did not whisper about the alternative efficacious remedy under Section 19 of the Right to Information Act. The petitioner filed this writ petition bypassing the statutory remedy available under Section 19 of the Act. When an alternative and efficacious remedy is available to the petitioner under the statute, in the absence of any compelling and justifiable reasons, the petitioner cannot be allowed to by-pass the remedy. I am fortified in my



WP(MD). No.29931 of 2024

view by the judgment of the Hon'ble Supreme Court of India in

Commissioner of Income Tax and Others Vs. Chhabbil Dass

Agarwal reported in **2014(1)SCC 603**. The relevant para reads as

follows:

"15. Before discussing the fact proposition, we would notice the principle of law as laid down by this Court. It is settled law that non-entertainment of petitions under writ jurisdiction by the High Court when an efficacious alternative remedy is available is a rule of self-imposed limitation. It is essentially a rule of policy, convenience and discretion rather than a rule of law. Undoubtedly, it is within the discretion of the High Court to grant relief under Article 226 despite the existence of an alternative remedy. However, the High Court must not interfere if there is an adequate efficacious alternative remedy available to the petitioner and he has approached the High Court without availing the same unless he has made out an exceptional case warranting such interference or there exist sufficient grounds to invoke the extraordinary jurisdiction under Article 226. (See: State of U.P. vs. Mohammad Nooh, AIR 1958 SC 86; Titaghur Paper Mills Co. Ltd. vs. State of Orissa, (1983) 2 SCC 433; [Harbanslal Sahnia vs. Indian Oil Corpn. Ltd.](#), (2003) 2 SCC 107; ,State of H.P. vs. Gujarat



WP(MD). No.29931 of 2024

Ambuja Cement Ltd. (2005) 6 SCC 499)".

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6. In view of the judgement cited supra, I find no merit in this writ petition and the same is dismissed. In any event, the petitioner is given liberty to file Second Appeal before the concerned authority, if so advised. No costs. Consequently, connected miscellaneous petition is closed.

13.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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And First Appellate Authority,
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Chennai.

2. The Assistant General Manager
and Central Assistant Public
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WP(MD). No.29931 of 2024

Dindigul,Dindigul District.

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N.MALA,J

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**ORDER
IN
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Date : 13/12/2024



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WP(MD). No.29931 of 2024