

(2014) 11 MAD CK 0574

Madras High Court (Madurai Bench)

Case No: W.P(MD) No. 18098 of 2014

A. Krishnamoorthy

APPELLANT

Vs

The Regional Manager, Indian
Overseas Bank

RESPONDENT

Date of Decision: Nov. 27, 2014

Hon'ble Judges: M. Venugopal, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

M. Venugopal, J.

Heard both sides.

2. According to the Petitioner, he is working in the Government Arts College, Kumbakonam as an Assistant Professor of Economics. He has accessed the salary account in the Second Respondent/Bank. He is also continuously having the transaction with the Second Respondent/Bank. After his regularization of service, he had obtained personal loan termed as "Clean Loan Facility" during the year 2007 from the Second Respondent/Indian Overseas Bank, Court Complex, Kumbakonam and repaid the amount without any default.

3. He had also obtained another personal loan during the year 2011 from the Second Respondent/Bank and repaid the amount without any default. Further, in the year 2011, he had obtained a car loan and repaid the loan amount much earlier, to the time fixed as per loan conditions. On earlier occasions, at the time of grant of personal loan, the Second Respondent/Bank disburse the said loan after obtaining security from his wife's Salary Certificate and another Salary Certificate from Assistant Professor. Moreover, the Bank granted personal loan upon satisfaction of his repayment and upon verification, he had never committed any default earlier.

4. The plea taken on behalf of the Petitioner is that now he had applied for the personal loan before the Second Respondent/Bank by submitting the application,

dated 10.01.2014, together with Guarantors Certificate obtained from his wife Mrs.S.Rajarajeswari and K.Chandra. The Guarantee Certificate furnished by his wife Mrs.S.Rajarajeswari was declined to be accepted by the Second Respondent/Bank on the ground that his wife had obtained the housing loan from some other bank and she had committed default in payment as revealed from Report of the CIBIL [Credit Information Bureau (India) Limited] maintained by all bankers.

5. The Petitioner also furnished another Guarantee Certificate from his co-worker Mrs.K.Kala. Therefore, he is entitled to get the Clean Loan of Rs.2,50,000/- as per norms of the Second Respondent/Bank. It appears that the Second Respondent/Bank declined to grant the loan by passing the impugned order, dated 21.08.2014, mentioning that as per the Communication of the First Respondent, he had not paid the entire loan amount obtained earlier from the Bank. The said alleged non-payment of due was not true and therefore he made representation to the First Respondent/Regional Manager, Indian Overseas Bank, Medical College Road, Thanjavur mentioning that he had never committed any default in making payment as regards the personal loan and car loan which were obtained earlier. As a matter of fact, the First Respondent without properly considering his representation dated 02.09.2014, had passed the impugned order dated 20.09.2014, stating that he had committed default and as such he is not entitled to the Clean Loan Facilities. The another impugned order dated 20.09.2014 passed by the First Respondent, stating that the Petitioner had committed default and as such the Bank was not able to consider his request, is not a correct one.

6. The learned counsel for the petitioner vehemently submits that both the impugned orders dated 21.08.2014 and 20.09.2014 passed by the Respondents are per se illegal and an arbitrary one in the eye of Law. Further, it is the stand of the Petitioner that earlier, he obtained personal loan during the year 2011 and another personal loan during the year 2011 and car loan during the year 2011 and they were repaid without any default and on that point of time prior to 2007, the Petitioner had not committed default and in fact the Petitioner had complied with all the requisite conditions by furnishing necessary particulars for obtaining the personal loan. However, the Bank had simply passed the impugned orders, whereby it declined to grant the loans in question. Also that he had not committed any default of loan obtained from the Second Respondent/Bank.

7. Coming to the aspect that there was right of amount in the Credit Information Bureau (India) Limited Report that, it is the case of the Petitioner that he had not committed any default and there was no due and he completely discharged the personal loan amount obtained during the year 2007 and 2011 and the car loan.

8. In effect, the Learned Counsel for the Petitioner urges before this Court that the First Respondent had mechanically, without application of mind, had passed the impugned orders, rejecting the grant of loan to the Petitioner without any valid reasons and in fact the Petitioner is entitled to the Clean Loan Facilities as claimed in

his loan application dated 10.01.2014.

9. Per contra, it is the contention of the Learned Counsel for the Second Respondent/Bank that totally the Petitioner had obtained six loans as per Credit Information Bureau (India) Limited Report and in fact the Petitioner had only mentioned about the one Credit Information Bureau (India) Limited Report in his loan application, dated 10.01.2014, and as such he has suppressed the material facts and as per Credit Information Bureau (India) Limited Report, the Second Respondent/bank had issued notice to the petitioner on 01.07.2014 inter alia mentioning the following details:

Sub: Clarifications required in the Clean Loan Proposal submitted by you reg:-

With reference to the Loan application sent by you, it is observed from your CIBIL report that there is a total of 6 loans in current status of which 3 accounts are overdue. The details are as below:

We request you to kindly furnish the details of the above loans mentioning the Nature of Loan, Bank from which the loan is availed, Present Position of the loan and the Bank statement for the same. Hence we request you to kindly furnish the position of the above loans at the earliest.

and requested him to furnish the details of the above loans, mentioning the Nature of Loan, Bank from which the loan is availed, Present Position of the loan and the Bank Statement for the same, for which, the Petitioner had submitted his reply dated 02.09.2014 without mentioning the proof of clearing loans granted to him. Per contra, he had only stated that already he had repaid the loan in the year 2007 and in the year 2011, etc.

10. The core contention advanced on behalf of the Second Respondent/Bank is that the Second Respondent/Bank cannot be coerced/compelled to advance loan to the Petitioner, since the Petitioner cannot seek for the grant/sanction of loan either as a matter of right or as a matter of course or as a matter of routine, instead, the grant or sanction of loan by the Second Respondent/Bank is purely within the domain of the Second Respondent/Bank and as such a discretion vested in the Bank cannot be questioned by the Petitioner in the present Writ Petition.

11. By way of reply, the Learned Counsel for the Petitioner submits that the Petitioner's wife had repaid a sum of Rs.32,800/- and cleared a personal loan which was obtained from the H.D.F.C. Bank, Chennai. As such, contra plea taken on the side of the Second Respondent/Bank cannot be countenanced in the eye of Law.

12. This Court has heard the Learned Counsel for the Petitioner and the Learned Counsel for the Second Respondent/ Bank.

13. In the light of detailed discussions and in view of the fact that the sanction/grant of loan, is purely within the subjective domain and discretion of the Second

Respondent/ Bank, this Court is of the considered view that the Petitioner has no enforceable legal duty cost upon him to file the present Writ Petition before this Court. As such, the present Writ Petition filed by him is devoid of merits. Consequently, the Writ Petition fails.

14. In the result, the writ petition is dismissed, leaving the parties to bear their own costs.