

(2012) 07 MAD CK 0123

In the Madras High Court

Case No : Writ Petition No. 12876 of 2012 and M.P. No. 1 of 2012

V.M. Karthika

APPELLANT

Vs

Indian Bank and Others

RESPONDENT

Date of Decision : 26-07-2012

Acts Referred:

Citation : (2013) 1 BC 297 : (2012) 5 CTC 512

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : D. Sadhasivan, for the Appellant; K.S. Vasan o/b Murthi and Vasan, Advocates for the Respondent Nos. 1 to 3 and Mr. Kala Ramesh, Advocate for the Respondent No. 4, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The petitioner has filed the present writ petition seeking to set aside the order dated 12.4.2011 issued by the Manager of the respondent-Indian Bank and also for a consequential direction to receive her Application dated 12.10.2010 for educational loan to carry on her B.E. Degree Course for the period 2010-2014 in the Indian Institute of Road and Transport Technology, Erode and for a further direction to the respondents 1 to 3 to sanction educational loan applied by the petitioner for B.E. Full Time Computer Science and Engineering Course for the period 2010-2014. When the writ petition came up for admission on 4.5.2012, this Court directed the petitioner to send notice to the respondents. Accordingly, for the respondent-Bank, Mr. K.S. Vasan, learned Counsel appeared on behalf of M/s. Murthi and Vasan and also tiled a Counter Affidavit dated 14.5.2012. The petitioner has filed a Reply Affidavit dated 22.6.2012. The respondent-Bank filed a rejoinder dated 4.7.2012 and the petitioner has filed a sur-rejoinder dated 8.7.2012.

2. By the impugned order dated 12.4.2011, the petitioner's father was informed that his request for grant of educational loan to her daughter, who is the petitioner herein, has been declined as the co-applicant is a Non-Performing

Asset (NPA) customer.

3. It is admitted by the petitioner that her father was the co-applicant for the loan availed by her elder sister and there were also dues payable by her father. Therefore, in the normal circumstances, the petitioner's claim for sanction of educational loan, as a matter of right, cannot be considered.

4. In the Counter Affidavit filed by the respondents 1 to 3, it was stated that the petitioner's Educational Loan Application was received and the Bank has fully applied its mind and, thereafter, it was declined for a specific reason. The petitioner's father had already availed educational loan for his first daughter and defaulted in repayment of the same forcing the Bank to the extent of filing a Suit in O.S. No. 17 of 2010 on the file of the District Munsif Court, Chidambaram and they have also obtained a decree on 9.4.2012. The petitioner's father contested the said Suit and did not submit those decrees and the decree is still not satisfied.

5. In the Reply Affidavit filed by the petitioner, elaborate statements have been made. It was stated that the petitioner's father and her elder sister are taking steps for filing an Appeal against the judgment and decree passed in O.S. No. 17 of 2010. They are also prepared to pay the instalments due to the Bank, which became due one year after the course was completed namely July 2011. Further, already the petitioner's elder sister has paid a sum of Rs. 14,720/- towards loan account.

6. In the rejoinder filed by the respondent-Bank, the allegation made by the petitioner that the Manager has taken signatures in blank papers was denied. Since the petitioner's father happened to be the co-applicant, who has not cleared the earlier loan amount forcing the Bank to go for a Civil Suit, it is not worth to pay another loan to the same family.

7. In the sur-rejoinder filed by the petitioner, it was stated that the petitioner's father and her elder sister have filed an Appeal before the Sub-Court, Chidambaram and the same is pending.

8. In the facts and circumstances of the case, it has to be seen whether the petitioner has made out any case for the grant of educational loan.

9. The learned Counsel for the petitioner placed reliance upon the following judgments of the Court in support of his submissions.

(i) Eswaran v. The Manager, Canara Bank and Another, W.P. (MD) No. 7620 of 2011 decided on 20.7.2011;

(ii) G. Dhivya Vs. The Branch Manager, Canara Bank and The Chief General Manager, Canara Bank,

(iii) R. Sahana Vs. The Manager, Oriental Bank of Commerce, The Regional Manager, Oriental Bank of Commerce and The Principal, Rajalakshmi Engineering College,

However, none of the judgments cited by the learned Counsel for the petitioner is helpful to the case of the petitioner. The present case is a peculiar case where the same family wants a second loan, without discharging the obligation created for the first loan. On the contrary, the Bank was forced to spend further amounts in filing a Suit and getting a decree. It is not as if the availing of loan is a matter of right without fulfilling the legal obligations appended to it. The conduct of the parties are also relevant criteria for the Bank to disburse loan amount and, therefore, this Court do not think that any case has been made out by the petitioner to entertain the writ petition. Hence, the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.