

**THE HONOURABLE SRI JUSTICE K.SARATH**

**WRIT PETITION No.4180 of 2022**

**ORDER:**

This petition is filed seeking a direction more particularly one in the nature of Writ of Mandamus declare the Pro.No.AFC/RRE/MR&R/2021-22/233, dated 30.12.2021 of the respondents in rejecting the request of the petitioner for OTS and directing to pay interest even after receipt of the entire principal amount as illegal, arbitrary and consequently, to set aside the impugned proceedings dated 30.11.2021 by directing the respondent to accept the OTS proposal made by the petitioner.

2. Heard Sri.T.Koteswara Prasad, the learned counsel for the petitioner and Sri.M.Hamsa Raj, learned Standing Counsel for the Andhra Pradesh State Financial Corporation.

3. Learned counsel for the petitioner submits that the petitioner has availed a term loan of Rs.336.69 lakhs to set up a unit for manufacture of Precision Engineering Components (Turned Bearing Rings, Turned Components and allied items) at Survey No. 551, Ghatkesar Village and Mandal, Medchal

Malkajgiri District under General Loan Scheme. The total project of Rs.605 lakhs. That the said loan was obtained against collateral security worth Rs.138.02 lakhs by way of urban immovable properties including value of unit's land surplus value of securities offered to the associated unit to the satisfaction of respondent.

4. The learned counsel for the petitioner submitted that in view of the market situation the petitioner has decided to close the business by settling all the liabilities in order to avoid the burden of interest, the petitioner had approached the respondent corporation and made a proposal of One Time Settlement on 18.02.2020. The respondent advised the petitioner to pay sum amount for approval under OTS. In pursuance of above direction, the petitioner had paid Rs.25 lakhs to the respondent on 18.03.2020 through RTGS and also paid Rs.40 lakhs on 31.03.2020. In spite of payment of total principal amount respondent has not considered the One Time Settlement proposal of the petitioner and issued Pro.No.AFC/RRE/MR&R/2021-22/233, dated 30.12.2021 directing the petitioner to pay Rs.1,40,73,567/- including O.E

without any basis, without mentioning the details of interest accrued thereon is illegal, arbitrary and unconstitutional and contrary to the guidelines issued by the RBI under OTS scheme.

5. The learned standing counsel for the respondent submitted that the petition is not maintainable as the petitioner borrowed a term loan for an amount of Rs.336.69 lakhs and failed to pay the borrowed amount regularly and he cannot pressurise the respondent Corporation to settle the matter under One Time Settlement scheme and the standing counsel for the respondent relied on the judgment of the Hon'ble Supreme Court in ***Bijnor Urban Cooperative Bank Limited, Bijnor and others vs Meenal Agarwal and others***<sup>1</sup>.

6. After hearing on both sides this Court is of the considered view that admittedly, the petitioner has obtained an amount of Rs.336.69 lakhs to set up a unit for manufacture of Precision Engineering Components and failed to pay the interest and principal amount regularly. The acceptance of the One Time Settlement scheme is ultimately for the bank to take conscious

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<sup>1</sup> 2021 SCC OnLine SC 1255

decision. No bank can be compelled to accept a lesser amount under the One Time Settlement scheme despite a bank is able to conduct auction, to secure property or mortgage property and no borrower as a matter of right pray for grant One Time Settlement scheme.

7. The Hon'ble Supreme Court in ***Bijnor Urban Cooperative Bank Limited, Bijnor vs Meenal Agarwal*** (supra) held that no writ of mandamus can be issued by the High Court in exercise of powers under Article 226 of the Constitution of India, directing a financial institution/bank to positively grant the benefit of OTS to a borrower and such a decision should be left to the commercial wisdom of the bank whose amount is involved and it is always to be presumed that that financial institution/bank shall take a prudent decision whether to grant the benefit or not under the OTS scheme.

8. In view of the above circumstances, the writ petition is devoid of merits and liable to be dismissed and accordingly the Writ Petition is dismissed. No costs.

9. Miscellaneous Petitions, if any, pending in this Writ  
Petition shall stand closed.

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**JUSTICE K.SARATH**

Date: 22.11.2022.

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*SK,J*  
*W.P.No.4180 of 2022*  
*Dt.22.11.2022*

**THE HONOURABLE SRI JUSTICE K.SARATH**

**W.P.No.4180 OF 2022**

**Date: \_\_\_\_\_.11.2022**

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