

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S. SIVAGNANAM

W.P.No.19504 of 2013

1.Mahendar B.Daryanani
2.Padma Daryanani

...Petitioners

vs.

1. The Regional Director for Tamil Nadu,
Reserve Bank of India,
Fort Glacis, Rajaji Salai,
P.B.No.40, Chennai-600 001.
2. Bank of Baroda,
rep. by its Chairman & Managing Director,
"Suraj Plaza",
No.1, Sayaji Ganj,
Baroda-390 005.
3. The Deputy General Manager,
Bank of Baroda,
Zonal Office,
No.90, C.P.Ramaswamy Road,
Alwarpet,
Chennai-600 018.
4. The Regional Manager,
Bank of Baroda,
No.82, Bank Road,
3rd Floor, Opp. Railway Station,
Coimbatore-641 018.
5. The Branch Manager,
Bank of Baroda,
No.46, Chinna Kadai street,
Tiruchirapalli-620 002,
Tamilnadu.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue Writ of Mandamus directing the 1st respondent to direct the respondents 2 to 5 to pay the deposit amount of Rs.28,87,499/- together with further interest from 20.10.2011 to the petitioners within the time to be stipulated by this Court.

For Petitioner : Mr.G.Ashokapathy
for
M/s.Pass Associates

For Respondent : Mr.S.Arun
for
M/s.Sampath Kumar and
Associates for R2 to R4

R1 & R5 - No Appearance

ORDER

Heard Mr.D.Ashokapathy, learned counsel appearing for the petitioners and Mr.S.Arun, learned counsel appearing for the respondents 2 to 4.

2. The petitioners seek the following relief:-

"For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble Court may be pleased to issue a writ, direction or order and in particular a Writ in the nature of Writ of Mandamus directing the 1st respondent to direct the respondents 2 to 5 to pay the deposit amount of Rs.28,87,499/- together with further interest from 20.10.2011 to the petitioners within the time to be stipulated by this Hon'ble Court and pass such further order other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

3. According to the petitioners, the respondents Bank has not returned the amounts, which have been received under the Fixed Deposit Receipts and the Fixed Deposit Receipts having been issued, the respondents Bank had taken certain stand in the reply given to the petitioners before filing the writ petition.

4. In the counter-affidavit, the respondents Bank has stated that the petitioners have deliberately drawn a cheque in their own name and sent it to Murugan, who is not the authority to receive the Fixed Deposit Receipts and the Fixed Deposit Receipts

are also obsolete ones and they were not issued by the respondents Bank and the same are forged and fake ones and the signatures appearing on those Fixed Deposit Receipts are not the signatures of the Bank Manager or any authorised signatory of the Bank. Further, it is stated that no consideration was received by the Bank for issuing such Fixed Deposit Receipts. Further, from the counter-affidavit, it is seen that CBI had commenced investigation and also seized the cheque from the Indian Overseas Bank on which the cheque was issued and F.I.R. has also been registered by the City Crime Branch under F.I.R.No.31/2012, dated 04.12.2012. Hence, in this writ petition, the disputed questions of fact cannot be gone into and the prayer sought for by the petitioners cannot be granted.

5. The writ petition is dismissed, however, this order will not prevent the petitioners to adjudicate their rights before the appropriate forum. No costs.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Regional Director for Tamil Nadu,
Reserve Bank of India,
Fort Glacis, Rajaji Salai,
P.B.No.40, Chennai-600 001.

1 CC to Mr.S.Arun for M/s.Sampath Kumar Associates, Advocate SR.No. 16400

1 CC to Mr.G.Ashokapathy for M/s.Pass Associates, Advocate SR.No. 16188

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TJ (CO)
PSI (01.04.2015)