HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.11835 OF 2010

ORDER:

This writ petition, under Article 226 of the Constitution of India, is filed by the petitioner, to declare the action of the 1st respondent in freezing an amount of Rs.20,00,000/- lying in the petitioner's account No.51553, as arbitrary and illegal and consequently, direct the 1st respondent to permit the petitioner to draw the amount.

The brief facts of the case are that the petitioner is engaged in the work of dredging. The 2nd respondent has awarded the work of dredging assignment of TFC-Development of Inland Water Ways from kadinankulam Kayal to Anjengo Kayal, Chirayinkeezhu-Tiruvananthapuram District for a volume of 70000M3 work. The petitioner completed the works and to that effect, a certificate was also issued by the 2nd respondent on 28.11.2009. An amount of Rs.20,00,000/- was paid by the 2nd respondent to the petitioner towards part payment of the work executed by it, by way of two cheques. The petitioner presented the said two cheques in the 1st respondent bank where the petitioner is having its account bearing No.51553 and the said cheques were cleared on 21.04.2010.

While so, after 25 days of clearing of the cheques, the 1st respondent has informed the petitioner that the amount of Rs.20,00,000/- lying in the account of the petitioner is being freezed on the ground that they have received a letter from the 3rd respondent seeking "stop payment" of the cheques presented by the petitioner which were given by the 2nd respondent. Immediately, the petitioner addressed a letter to the Assistant General Manager of the

1st respondent Bank on 18.05.2010. Though the letter was received by the 1st respondent, it is not permitting the petitioner to draw the amount from its account. The grievance of the petitioner is that due to the action of the 1st respondent, the petitioner is deprived to participate in the tenders for which the amount has to be deposited. Hence, this writ petition.

A counter affidavit has been filed by Respondent Nos.3 and 4, in which the 4th respondent submitted that since the 2nd respondent Society is not having sufficient funds for execution of the work, it approached the 3rd respondent for financial assistance, for which the 3rd respondent sanctioned a cash credit accommodation of Rs.75 lakhs to the
2nd respondent. In the light of the agreement, two treasury cheques, amount to Rs.27,44,397/-, were received by the 2nd respondent, which were actually to be credited to the cash credit accounts of the
2nd respondent with the 3rd respondent Bank, but, due to over sight, the said amount was credited in the S.B. Account of the 2nd respondent with the 3rd respondent bank. Before rectifying the same, the 2nd respondent has issued two cheques in favour of the petitioner. Therefore, they sent a letter to the 1st respondent for realizing the amount, due to which the amounts of the petitioner were frozen.

Heard the learned counsel for the petitioner, learned Standing Counsel for the 1st respondent and the learned counsel for respondents
2 to 4 and perused the record.

It is the case of the petitioner that as per the agreement, for the works completed by it, the 2nd respondent has issued the cheques to it and the same were deposited with the 1st respondent Bank and after clearance, the said amount of Rs.20,00,000/- also credited in the account of the petitioner. The 1st respondent is under obligation to pay the said amounts. When rightly or wrongly, if the amount is credited in the account of the petitioner, it is for the bank to clear the amounts that stand in the name of the petitioner. The stand taken by the 1st respondent that because of the letter issued by the 3rd respondent to stop payment to the petitioner, it has freezed the amount of the petitioner, is not sustainable. It is unfortunate to note that the 1st respondent has no power to freeze the account not only for the petitioner, but also any of its customers except any order passed under the statutory provisions, and on mere request made by another bank, freezing of the amount stands in the account of the petitioner is highly arbitrary in nature.

Learned counsel for the petitioner submitted that the 1st respondent also fairly conceded that because of the request made by the 3rd respondent, they have erroneously freezed the amount stands in the account of the petitioner. There is no obligation for the 1st respondent to act upon the instructions given by the 3rd respondent. Further, it is not the case of the respondents that the petitioner has obtained the said amount illegally or by fraudulent manner and it is also not the case of the 3rd respondent that the said amount of Rs.20,00,000/- is not standing in the name of the 2nd respondent, who issued the cheques in favour of the petitioner.

On receipt of the cheques, the petitioner deposited the same for clearance with the 1st respondent. The same were sent to the third respondent for clearance. Accordingly, the same were cleared and the said amount of Rs.20,00,000/- was credited in the name of the petitioner. Subsequently, the 3rd respondent addressed a letter to the

1st respondent stating that they wrongly credited the amount in the name of the 2nd respondent and hence requested that the said amount which is cleared in favour of the petitioner is to be withheld. On such letter, the 1st respondent informed the petitioner that they cannot allow him to withdraw the said amount. It is unfortunate to note that such an act of the 1st respondent is not only erroneous but also arbitrary in nature. The 1st respondent bank is under obligation to allow the petitioner to withdraw the amount once it is credited in his favour. Any such act of freezing the account can be done only on the request of statutory authority on the basis of any act that empower the authorities concerned to pass such an order. In the present case, the 1st respondent has simply acted on the basis of the request made by the 3rd respondent, who has no authority to make such a request or to pass any order preventing the petitioner from withdrawing the amount credited in his account.

In view of the above, I deem it appropriate to direct the 1st respondent to pay the amount to the petitioner.

Accordingly, the Writ Petition is allowed and the 1st respondent is directed that whenever the petitioner approaches for withdrawal of the amount stands in its account No.51553, the 1st respondent should pay the amount to the petitioner along with statutory interest applicable to the amount, which stands in the said account.

There shall be no order as to costs. The miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

February 10, 2015.
KTL