

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 18.01.2016

Coram

THE HONOURABLE MR.JUSTICE T. RAJA

Contempt Petition No.2651 of 2014
and W.P. Nos.18304 and 18659 of 2005

Contempt Petition No.2651 of 2014

S.Thilaga ... Petitioner

Versus

1.N.K.Rajagopal
2.R.Rajkumar
3.R.Saravanakumar
4.R.Vasuki ... Respondents

Prayer: Petition filed to punish the respondents for non complying the order of this Court made in W.P.M.P. No.20201 of 2005 in W.P. No.18659 of 2005 dated 05.07.2005.

For Petitioner : Mr.M.Venkateshan for
Mr.V.Pavel

For Respondents : Mrs.P.Kavitha,
Government Advocate for R4

W.P. Nos.18304 & 18659 of 2005

Sri Renuka Auto Finance
rep. by its Managing Partner ... Petitioner in W.P. No.
I.Chandrasekaran 18304 of 2005

1.N.K.Rajagopal
2.R.Rajeswari
3.R.Rajkumar
4.B.Alagu Varalakshmi
5.S.Thilaga .. Petitioners in W.P. No.
6.V.Bharathi 18659 of 2005

Versus

1.The Secretary to the Government,
Home (Courts II-A) Department,
Its copy in its services
George, Chennai 600 009.

2.The District Revenue Officer,

Coimbatore District, Coimbatore.

3.The District Revenue Officer,
Theni District, Theni.

4.The Inspector General of Police,
Economic Offences Wing II, Chennai.

5.The Inspector of Police, ... Respondents in
District Crime Branch (E.W.O.II), Theni. both W.Ps

Prayer in W.P. No.18304 of 2005: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the first respondent to pass an interim order of attachment of the immovable properties of the borrowers of the petitioner firm viz., Sri Renuka Auto Finance, Theni, whose names and the other particulars are furnished in the typed set of papers, by exercising their power under Section 3 of the Tamil Nadu Protection of Interest of Depositors (in Financial Establishments) Act, 1997 (Tamil Nadu Act 44 of 1997) and consequently directing the respondents 4 and 5 to take follow up action.

Prayer in W.P. No.18659 of 2005: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the first respondent to pass an interim order of attachment of the immovable properties of the borrowers of the defaulting firm viz., Sri Renuka Auto Finance, Theni, whose names and the other particulars are furnished in the typed set of papers, by exercising their power under Section 3 of the Tamil Nadu Protection of Interest of Depositors (in Financial Establishments) Act, 1997 (Tamil Nadu Act 44 of 1997) and consequently directing the respondents 4 and 5 to take follow up action.

For Petitioners : No appearance in
W.P. No.18304 of 2005

Mr.M.V.Venkataseshan for
Mr.V.Pavel for 5th petitioner
No appearance for petitioners
1 to 4 and 6 in W.P.
No.18659 of 2005

For Respondents : Mrs.P.Kavitha,
Government Advocate in both W.Ps

COMMON ORDER

With the consent of both parties, the contempt petition along with writ petitions were taken up for consideration.

2.The case of the petitioner in W.P. No.18304 of 2005 is that the petitioner was paying regularly the interest to all the depositors. Suddenly several creditors failed to repay their loans and this made the petitioner committing default of the payment of matured deposits to some of the depositors. This being the position, a complaint was registered before the fifth respondent in Crime No.2 of 2003 as if the petitioner had defaulted a sum of Rs.1,01,18,450/- and another complaint was also registered before the fifth respondent in Crime No.3 of 2003 against the petitioner firm and other partners, for defaulting a sum of Rs.71,73,495/-. The petitioner states that he was regularly paying interest to all the depositors and only because of non payment of loans by various creditors to the petitioner firm, the petitioner firm had defaulted in repaying the deposits and also in repaying the interest subsequently. The petitioner further states that in the cases registered by the fifth respondent police, he has laid the charge sheet in C.C. No.98 and 99 of 2004 before the Special Court, Chennai and the said cases are pending.

During the time of investigation, the petitioner informed the respondent police that the petitioner had advanced loans amounting to Rs.1,87,70,985/- and he has also furnished all the details of the creditors with necessary papers. Though the said information was given to the respondent police, they had not chosen to take any action on the petitioner's information. Subsequently, the petitioner sent a representation on 20.05.2004 to the respondent police to initiate appropriate action on the petitioner's complaint. Since there was no action on the petitioner's complaint, the petitioner approached the Madurai Bench of this Court by filing a Crl.O.P. No.3970 of 2004 seeking appropriate direction to the respondent police on the petitioner's complaint. After hearing the petitioner's contention, Madurai Bench of this Court directed the fifth respondent to register a case on the basis of the complaint given by the petitioner. In these circumstances, the first respondent herein issued two Government Orders in G.O. Ms. No.1026 dated 27.10.2003 and G.O. Ms.No.1010 dated 12.08.2004 ordering attachment of the petitioner's property and other properties of the partners. Thereafter, the respondent police approached the petitioner and other partners of the firm on 16.05.2005 demanding repayment of the deposits. Therefore, the petitioner has come forward before this Court for the aforesaid prayer.

3.The case of the petitioners in W.P. No.18659 of 2005 is that they came to know about the fact that they were shown as partners of M/s.Sri Renuka Auto Finance Ltd., Theni/petitioner in W.P. No. 18304 of 2005. Therefore, they have lodged a police complaint stating that petitioners 1 and 2 were not at all partners of the said firm, but, their names have been wrongly included in the complaint, as if they were running the said firm. Similarly, petitioners 3 and 4 have also lodged police complaint against the Managing Partner of the said firm for forging their signatures and wrongly including their names in the Partnership Deed by suppressing their minor status. Likewise, petitioners 5 and 6 have also lodged complaints before the concerned police authorities as their signatures have been forged by the Managing Partner of the said firm. Though several complaints were lodged, no action was initiated by the police authorities. Therefore, petitioners 3 and 4 have approached the Madurai Bench of this Court and obtained an order of direction directing the concerned police authorities to register an F.I.R. on the basis of their complaints. As per the directions passed by the Madurai Bench of this Court, the Inspector of Police, District Crime Branch, Theni registered a case in Crime No.7 of 2005 under Sections 420, 465 and 120(B) of IPC and in the said case, investigation was under progress. This being the position, the competent authority constituted

under the Act through the first respondent, issued two Government Orders in G.O. Ms. No.1026 dated 27.10.2003 and G.O. Ms.No.1010 dated 12.08.2004 ordering attachment of the properties of the petitioners and their blood relatives, who are actually not at all connected with the partnership firm, namely, Sri Renuka Auto Finance Ltd., Theni. The petitioners herein state that without being any active participation by the petitioners in the affairs of the said firm, their properties and the properties of their blood relatives are ordered to be attached without any sufficient material to show that these petitioners have actively participated in the affairs of the said defaulting firm. Therefore, the petitioners have come forward before this Court for the aforesaid prayer.

4.This Court on 05.07.2005 in W.P.M.P. No.20201 of 2005 granted an order of status quo. In the meanwhile, as the petitioners' property were also attached during the pendency of order of status quo, the contempt petition has been filed.

5.Learned counsel for the fifth petitioner in W.P. No.18659 of 2005 as well as the counsel for the petitioner in Contempt Petition would submit that subsequently much water has flown by which the properties belonging to Sri Renuka Auto Finance, rep. by its Managing Partner I.Chandrasekaran/petitioner in W.P. No.18304 of 2005, has been attached and the said Chandrasekaran/A2 and one

Saraswathi/A6 wife of Chandrasekaran have filed applications in I.A. Nos.5 & 6 of 2013 before the Special Court (T.N.P.I.D.), Madurai to release their property.

6.At this point of time, learned Government Advocate placing on record a status report filed by the Inspector of Police, District Crime Branch, dated 04.01.2016 submitted that as per G.O. Ms. No.1026 dated 27.10.2003, the properties of the accused were attached by the Government. Hence, as per the G.O. Ms. No.1010 dated 12.08.2004, an order was passed by the Special Court on 12.10.2015 in O.A. No.12/2011 directing the Government to take further action on the above said attached accused properties and the said order has also been sent to DRO, Theni for further action and the same is pending before the DRO, Theni. Now all the accused have appeared before the Special Court, T.N.P.I.D. Act Court, Madurai and they have repaid 211 depositors to the tune of Rs.86,58,600/- and as they have to repay 29 depositors to the tune of Rs.16,99,815/-, the matter was posted to 12.01.2016 for examination of the witnesses.

7.Considering the facts and circumstances of the cases and after going through the submissions made on either side, this Court is of the view to dispose of the writ petitions as nothing further remains to be considered in the writ petitions. Accordingly the writ petitions are disposed of. In view of the same, the contempt petition is closed. No costs. Consequently, connected M.Ps are closed.

8.Learned counsel for the fifth petitioner in W.P. No.18659 of 2005 as well as the counsel for the petitioner in Contempt Petition would submit that the fifth petitioner in W.P. No.18659 of 2005 as well as the petitioner in Contempt Petition is not a partner of Sri Renuka Auto Finance and she is a partner of Venus Textiles. Considering his submission made, it is left open to her to work out her remedy according to law.

Vga

SD/
JOINT REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

To

1.The Secretary to the Government,
Home (Courts II-A) Department,
Fort St. George, Chennai 600 009.

2.The District Revenue Officer,
Coimbatore District, Coimbatore.

3.The District Revenue Officer,
Theni District, Theni.

4.The Inspector General of Police,
Economic Offences Wing II, Chennai.

5.The Inspector of Police,
District Crime Branch (E.W.O.II), Theni.

CO/20/05/2016

One CC to Government Pleader, SR.646/2016

<https://hcservices.ecourts.gov.in/hcservices/> One CC to Mr.V.Parel, Advocate, SR.658/2015

One CC to Mr.V.Parel, Advocate, SR.659/2015

One CC to Mr.S.Ravichandran, Advocate, SR.2519/2015