

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.499 of 2013

1.Mrs.S.Saraswathi
2.S.Sankar Kumar

.. Petitioners

Versus

The Branch Manager
Central Bank of India,
Mandaveli Branch,
Chennai 600 028.

.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondent to permit the petitioners to operate the locker No.14/2 maintained with the respondent herein.

For Petitioners : Mr.A.Thirumaran

For Respondent : Mr.N.V.Srinivasan
for M/s.N.V.S. & Associates

O R D E R

This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondent to permit the petitioners to operate the locker No.14/2 maintained with the respondent-Central Bank of India, Mandaveli Branch, Chennai.

2.The petitioner alongwith her husband holds a bank locker bearing No.14/2 with the respondent herein. Since the petitioner's husband was involved in a criminal case, the Central Buereau of Investigation (CBI) had taken custody of the locker which was jointly operated by the petitioner and her husband. Consequently, the petitiner's husband had filed an application in Criminal M.P.No.839 of 2011 in C.C.No.30 of 2010 before the IX Additional Judge, Chennai seeking for return of the custody of the locker and key. In the said application, the CBI had filed a reply stating that they have no objection to return the custody of locker and key to the petitioner therein, based on which, the Trial Court had passed an order restoring custody of the said locker and key. Under these circumstances, when the petitioner had approached the respondent's bank for operating her locker, she was not

permitted. After serveral requests to the bank authorities, the petitioner gave a letter to the Banking Ombudsman which was also closed by a letter dated 09.01.2012 stating that the Criminal case filed by the respondent is pending before the Court. Aggreived against the same, the petitioner has filed this present Writ Petition.

3.Heard Mr.A.Thirumaran, learned counsel on behalf of the petitioners and Mr.N.V.Srinivasan, learned counsel representing M/s.N.V.S.& Associates on behalf of the respondent.

4.The learned Counsel for the respondent would submit that the bank had suffered a loss to the extent of Rs.25,00,000/- on account of the fraud perpetrated by the second petitioner and that the respondent bank had already filed C.S.No.356 of 2011 against the second petitioner. The learned counsel would further submit that the bank was not a party in Crl.M.P.No.839 of 2011 in C.C.No.30 of 2011 and there are no specific directions by the Special Court for CBI cases to allow the petitioners to access the locker.

5. The short question that arises for consideration is whether the bank has powers to refuse its customers to access the locker on the ground that the Bank had suffered financial loss on account of the petitioner's involvement in a Criminal case? Admittedly, there are no regulations to the effect that, if a customer is involved in a criminal case, they should be prevented from having access to the locker. There are no interim orders also from any Court of law preventing the petitioner's access to locker. On the otherhand, the Special Court for CBI cases has ordered for custody of locker and key to the petitioners and the prosecution in the criminal case also has no objection in returning the locker key and defreezing the locker. Pursuant to the orders of the Special Court, the possession of the locker is deemed to be vested with the petitioner and her husband and in absence of any regulations or court orders enabling the respondent to continue custody to the petitioner's locker, the conduct of the respondent is per se illegal.

6. Under such circumstances, I see no merit in the defense taken by the respondents. Accordingly, the writ petition is allowed with a direction to the respondent to permit the petitioner to operate locker No.14/2 maintained with the respondent bank - Central bank of India, Mandaveli Branch, Chennai. No costs.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

The Branch Manager
Central Bank of India,
Mandaveli Branch,
Chennai 600 028.
Chennai-32.

1 cc to N.V.S. Associates, Sr. 64102

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SSI (CO)
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