IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.38762 of 2015
and
M.P.No.1 of 2015

M/s.Integrated Finance Company Ltd.,
represented by its Law Officer,
A.Hema Jothi,
having its Regd office at No.10,
R-Block, II Floor,
Prem Nagar Colony,
South Boag Road,
T.Nagar,
Chennai-600 017. .. Petitioner

Vs.

1.Government of Tamil Nadu,
rep by Additional Director General of Police,
Economic Offences Wing-II,
TNHB Building, 3rd Floor,
Anna Nagar,
Chennai-600 040.
2.Principal Secretary to Government,
Home Department,
Government of Tamilnadu,
Fort St. George,
Chennai-600 009.
(R-2 impleaded vide order dated 28.1.2016
in WMP No.599 of 2016) .. Respondents

The writ petition is filed under Article 226 of the Constitution of India, praying that this Court may be pleased to issue a Writ of Mandamus, directing the respondent to take action against nine borrowers / guarantors of the petitioner company and recover the money due from them.

For Petitioner : Mr.V.P.Raman
For Respondents : Mr.R.Ravichandran, AGP

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ORDER

Heard.

2 This writ petition has been filed by the petitioner, praying that this Court may be pleased to issue a Writ of Mandamus, directing the respondent to take action against nine borrowers / guarantors of the petitioner company and recover the amounts due from them, to the extent of their default, as contemplated under Section 3 of the Tamil Nadu Protection of Interests of Depositors (In Financial Establishments) Act, 1997 (hereinafter referred to as "the Act").

3 It has been stated that the petitioner is a Non Banking finance company, incorporated during the year, 1983. The petitioner company is a public limited company, with over 20,000 shareholders. It was involved in the business of Hire Purchase, Leasing and Factoring. During the course of its business, it had run into serious financial difficulties, during the year, 2005. While so, on the basis of a complaint received from a depositor, namely, Geetha, on 26.3.2012, a case had been registered, by the respondent, under Section 5 of the Act and Section 420, read with Section 120-B of the Indian Penal Code.

4 It has also been stated that the petitioner company had filed applications, in A.Nos.804, 826 and 827 of 2013, in C.P.No.172 of 2012, seeking, inter-alia, an appointment of an Administrator to recover the receivables of the petitioner company and for a provisional liquidator to assist the administrator, in C.P.No.172 of 2012, filed by the Federal Bank, to wind up the petitioner company. An administrator had been appointed, by an order of this Court, dated 27.8.2013. However, he had been relieved from the post of the Administrator, by an order of this court, dated 20.11.2014. Thereafter, the High Court has been supervising the affairs of the company.

5 It has also been stated that civil suits have also been filed to recover the dues from the borrowers / guarantors and decrees have also been obtained. The petitioner company has also submitted all necessary details of the agreements entered into with the nine borrowers and the total dues payable by them, to the petitioner company, along with the other necessary details. A request had been made to the first respondent, by the petitioner company to initiate proceedings and to take necessary action to attach the properties and to collect the amounts payable by the nine borrowers, to the extent of their default, as contemplated, under Section 3 of the Act. A request had been made for recovering the amounts from the following defaulters :

1. Avon Industries Ltd., Hyderabad, Andhra Pradesh
2. Andal Financial Services Ltd., Hyderabad, Andhra Pradesh.
3. Nirup Synchrome Ltd., Hyderabad, Andhra Pradesh.
4. Gleitlager (I) Ltd., Mumbai.
5. Lok Holding, Mumbai.
6. R S L Industries Ltd., Chennai
7. Kamala Cattle Feeds, Chennai
8. Quetic Impex
9. Ashok Nambiar.

6 It has been further stated that, by a letter, dated 18.6.2013, the petitioner company had furnished to the first respondent a list of 558 borrowers, against whom decrees had been obtained from the civil courts concerned. Further, details of over 533 accounts, for an amount, exceeding Rs.51 Crores, had been given to the first respondent, vide letter, dated 26.3.2014. However, the first respondent had not taken necessary steps to recover the amount due from the borrowers, as per Section 3 of the Act. Hence, the petitioner has preferred the present writ petition, before this Court, under Article 226 of the Constitution of India.

7 A counter affidavit had been filed on behalf of the first respondent, dated 14.7.2016. In the present case, the total defaulted amount is as follows :

No. of Depositors	Deposit Amount	Interest	Maturity Amount	No. of FDR counts	No. of Bond counts	Total counts
3872	69,73,05,429	50,16,92,788	119,89,98,217	2282	8513	10795

8 Paragraphs 8 and 9 of the counter affidavit read as follows :

"8. . . . . all the nine below mentioned borrowers dues pending with M/s.IFCL to the extent of default amount were sent to Government for orders for ad-interim attachment as per Section 3 of TNPID Act.

Sl. No.	Name of the Borrower's Company	Dues to IFCL as per Court Suit in Rs.	Amount pending as per Court Decreed amount as on 31.12.2015
1.	M/s.Avon Industries Ltd, Hyderabad, Telungana (Formerly AP State)	3,29,17,376.98 C.S.No.588 of 2000 before the Hon'ble City Civil Court of Madras	Rs.5,62,66,299.25/-
2	Andal Finance Services Ltd., Hyderabad, Telungana (Formerly AP State)	Rs.86,96,032/- 25.03.2013. C.S.No.235 of 2000 before the Hon'ble City Civil Court of Madras	Rs.95,86,069/-
3	Nirup Synchrome Ltd., Hyderabad,Telungana (Formerly AP State)	Rs.2,75,00,304/- 12.12.2013 C.S.No.102 of 1998 before the Hon'ble City Civil Court of Madras.	Rs.3,05,10,580/-
4	Gleitlager (I) Ltd., Mumbai	Arbitration between M/s.IFCL and Gleitlager (India) Ltd., Mumbai.	Rs.3,90,37,783/-
5	Lok Holding, Mumbai	Rs.85,03,085.83 dated 03.03.2005 C.S.No.618 of 2001 before the Hon'ble High Court of Madras	Rs.1,72,61,669.83
6	RSL Industries, Chennai	C.S.No.606 of 2008 before the Hon'ble City Civil Court of Madras. (Suit pending)	Rs.89,65,939.62
7	Kamala Cattle Feeds, Chennai	Arbitration Award passed on 04.02.2008 for Rs.1,02,54,267/- together with simple interest at 18% p.a from 04.2.2008 till realization.	Rs.2,48,83,533/-
8	Quetic Impex	Bill Discounting agreement	Rs.30,08,27,410/-

Sl. No.	Name of the Borrower's Company	Dues to IFCL as per Court Suit in Rs.	Amount pending as per Court Decreed amount as on 31.12.2015
9	Ashok Nambiar	Rs.21,36,102/- 31.01.2011. OS.No.7495 of 2010 before the Hon'ble Additional District & Sessions Judge	Rs.27,66,749/-
	Total		Rs.49,01,06,032.70

Value of nine proposals is Rs.49,01,06,032.70, as on 31.12.2015.

9.It is submitted that the averments in Paragraph 12 and 13 are denied and that for 37 proposals sent during 2014 and 2015 for the value Rs.2,44,12,564/- to Government orders for attachment vide in GO.Ms.No.122 dt.08.02.2016 were obtained."

9 In view of the averments made in the above mentioned paragraphs, forming part of the counter affidavit filed on behalf of the first respondent, it is clear that the first respondent is taking sufficient steps to recover the dues from the borrowers, to the extent of their default, as per the relevant provisions of the Act. In such circumstances, this Court is of the view that no further orders are necessary in the present writ petition. Hence the writ petition stands closed. No costs. However, it goes without saying that the second respondent may pass appropriate orders, as found necessary, based on the recommendations made by the first respondent, as expeditiously as possible. Consequently, connected miscellaneous petition is closed.

vvk

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1.The Additional Director General of Police,
Government of Tamil Nadu,
Economic Offences Wing-II,
TNHB Building, 3rd Floor,
Anna Nagar, Chennai-600 040.

2.Principal Secretary to Government,
Home Department,
Government of Tamilnadu,
Fort St. George,
Chennai-600 009.

+ 2 ccs to Mr.V.P.Raman, Advocate SR 43149

+ 1 cc to Govt.Pleader SR 42754

ala(co)
prk26/8

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