

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.39768 of 2015
and
M.P.No.1 of 2015

1.S.Sathyamoorthy
2.S.Lissy Vasavan
3.K.Rangasamy
4.K.Balamurali

... Petitioners

Vs.

1.The Manager,
City Union Bank Ltd.,
24/26, Ground Floor,
Sangagiri Main Road,
Pallipalayam,
Erode-638 006.

2.S.P.Sathish
3.S.P.Ragul
4.S.R.Vignesh

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call the records pertaining to the impugned order passed by the 1st respondent vide his letter dated 25.11.2015 forzen the operation of the OD account of the firm M/s.Udayam Textiles Printers bearing No.191120000138577 operated by the 1st petitioner and to quash the same and consequently, to direct the 1st respondent to permit the 1st petitioner to operate the said account on behalf of the firm.

For Petitioners : Mr.AR.L.Sundaresan, Senior Counsel
for M/s.J.C.Vasudevan

For respondents : Mr.R.S.Varadarajan
For N.Swaminathan (For R1)

Mr.J.Murugamanickam (For R2 to R4)

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorarified Mandamus, to call the records pertaining to the impugned order passed by

the 1st respondent vide his letter dated 25.11.2015 freezing the operation of the OD account of the firm M/s.Udayam Textiles Printers bearing No.191120000138577 operated by the 1st petitioner and to quash the same and consequently, to direct the 1st respondent to permit the 1st petitioner to operate the said account on behalf of the firm.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1.The petitioners and the respondents 2 to 4 herein are the partners in the firm Ms.Udayam Textile printers, which is doing Job Work of Textile Rotary Printing, as per the Reconstitution of Partnership Deed dated 01.07.2012. In fact, the petitioners are having 23%, 20%, 14% and 10% shares in the said firm, whereas the respondents 2 to 4 are having 11% each shares in the said firm respectively; thus, the petitioners are having 67% shares in the said Firm in total, whereas the respondents 2 to 4 are having 33% shares in total. As per clause 9 of the Partnership Agreement, the 1st petitioner is empowered to operate the bank account of the firm individually. Likewise, as per clause 10 of the Partnership Agreement, the 1st petitioner is the Managing Partner of the firm and is having independent authority to attend day-to-day business, maintenance of accounts and administration of the firm. The 1st petitioner has also been maintaining the true and correct accounts of the firm. There is a bank account for the said firm operating in the 1st respondent-bank having Current Account No.191120000138577 and the 1st petitioner has been operating the same so far without any disturbance.

2-2.While so, during the course of the partnership business, a dispute arose between the petitioners and the respondents 2 to 4. In this regard, the 1st petitioner has filed a suit O.S.No.521/2015 before the District Munsif Court, Erode and the same is still pending. While so, according to the petitioners, the respondents 2 to 4 herein colluded together with their parents and with malafide intention, gave a letter to the 1st respondent-bank on 24.11.2015 to stop the operation of the bank account of the firm, which is being operated by the 1st petitioner on behalf of the firm. On that basis, the 1st respondent has frozen the bank account of the firm and communicated the same to the 1st petitioner by its letter dated 25.11.2015. In fact, no opportunity was given to the 1st petitioner before freezing the bank account by the 1st respondent to put forth his case, though the 1st petitioner is the only partner empowered to operate the bank account of the firm. The action of the 1st respondent in freezing the bank account is highly arbitrary, high handed and against the principles of natural justice. Hence, the petitioner has come forward with the present writ petition before this Court.

3.The 1st respondent as well as the respondents 2 to 4 have filed separate counters, opposing the prayer of the petitioner.

4.However, the petitioners have filed an additional affidavit giving an undertaking that the 1st petitioner does not want any overdraft facilities from the 1st respondent-Bank, on behalf of the firm on the account maintained with the 1st respondent-Bank, in future and that even the 1st respondent-Bank can adjust the available amount in the account of the firm against the amount to be paid by the firm to the 1st respondent-Bank.

3.In view of the above undertaking given by the petitioners, this Court passes the following order_

The 1st respondent is directed to permit the 1st petitioner to operate the bank account, without availing any overdraft facilities and the 1st petitioner is also directed to maintain the accounts for the same. This order is passed without affecting the rights of the parties to approach the Civil Court to adjudicate their disputes.

With the above terms, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

ssv

To
The Manager,
City Union Bank Ltd.,
24/26, Ground Floor,
Sangagiri Main Road,
Pallipalayam,
Erode-638 006.

+1 cc to M/s.Ram & Raj & Associates, Advocate, sr.12026
+1 cc to Mr.T.Murugamanickam, Advocate, sr.11995
+1 cc to Mr.I.C.Vasudevan, Advocate, 11852

W.P.No.39768 of 2015
and M.P.No.1 of 2015

j sv co
kra 10.03.2016

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