

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 06.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE **M.VENUGOPAL****W.P. (MD) No.11024 of 2016**

S.Veeraputheran

... Petitioner

Vs.

1. The General Manager,
Canara Bank,
Customer Service Section,
Circle Office, East Veli Street,
Madurai, Madurai District.

2. The Senior Manager,
Canara Bank,
East Masi Street, Madurai,
Madurai District.

... Respondents

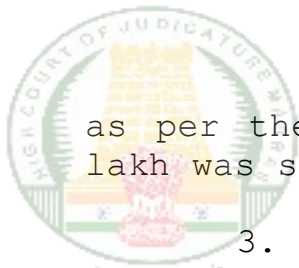
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the First Respondent to instruct the Second Respondent to disburse the maturity proceeds of the deposits bearing Nos.(i)KD/01/006674, Rs.1,75,000/-, dated 05.03.2008, (ii) FD/01/002184, Rs.10,000/-, dated 06.03.2008, (iii) KD/01/006473, Rs.1,00,000/-, dated 19.12.2007, (iv) KD/01/004201, Rs.16,386/-, dated 11.12.2005, total Rs.3,01,386/- with applicable rate of interest at periodical intervals as per the guidelines of the Bank in tune with RBI directives to the Petitioner along with cost.

For Petitioner : Mr.R.Murugan
For Respondents : Mr.N.Ramamoorthy

O R D E R

Heard both sides.

2. According to the Petitioner, he is working in Tamil Nadu State Transport Corporation as conductor ever since 25.02.2009. Prior to that, he was a partner in M/s.Shri Aby Construction, 16A, Vinayagar Nagar, Madurai 20. As a matter of fact, the said M/s.Shri Aby Construction was sanctioned with a bank guarantee limit of Rs.2,00,000/- *inter alia* on condition that 100% margin of deposits should be made with the Second Respondent/Bank. The said M/s.Shri Aby Construction was sanctioned with bank guarantee and



as per the terms of sanction memorandum, a cash deposit of Rs.1 lakh was stipulated.

3. The stand of the Petitioner is that he had deposited a sum of Rs.1,00,000/- from his own funds in KD/01/006473 dated 19.12.2007 and the same was offered as a security to the Bank guarantee and a lien was marked to BG No.4A/1007 and 5A/2007. Further, he had deposited the following amounts:

- | | | | |
|-------|--------------|---------------|------------|
| (i) | KD/01/006674 | Rs.1,75,000/- | 05.03.2008 |
| (ii) | FD/01/002184 | Rs.10,000/- | 06.03.2008 |
| (iii) | KD/01/004201 | Rs.16,386/- | 11.12.2005 |

and the same were given as security for the Bank guarantee limit of Rs.2,00,000/- sanctioned to M/s.Shri Aby Construction and lien was marked to BG 1/2008. In this connection, the Learned Counsel for the Petitioner submits that the Bank guarantee limit sanctioned to M/s. Shri Aby Construction of BG No.4A and 5A of 2007 were already discharged and no claim was made thereon till date.

4. According to the Petitioner, similarly, a Bank Guarantee No.1/2008 dated 05.03.2008 was issued by the Canara Bank, East Masi Street, Madurai to and in favour of the General Manager, BSNL, Karaikudi agreeing to exempt M/s. Shri Aby Construction, 16-A, Vinayagarnagar, Madurai from the demand, under the terms and conditions of the agreement No.GM-MDU-RW/TENDER/OFC/2007-08/13 dated 28.12.2007 made between BSNL and M/s.Shri Aby Construction 16-A, Vinayagarnagar, Madurai for Optical Fiber Cable laying works for the General Manager, BSNL, Madurai for payment of security deposit for the due fulfillment by the said contractor of the terms and conditions contained in the said agreement on production of a bank guarantee for Rs.20,00,000/-.

5. At this stage, the Learned Counsel for the Petitioner brings it to the notice of this Court that the aforesaid guarantee was valid up to 04.09.2009 and a claim period of three months was stipulated and the contractor M/s. Shri Aby Construction is liable to pay the guarantee amount or any part thereof under the bank guarantee only if the General Manager, BSNL (Development), CTO compound, Madurai-2, serves upon a written claim or demand on or before 04.12.2009. Further, there was no claim made till date by the General Manager, BSNL, Madurai and the liability of the surety (Canara Bank) under these guarantees is extinguished. Therefore, it is represented on behalf of the Petitioner that the Second Respondent/Bank is not liable under the guarantee for any amount.

6. The principal grievance of the Petitioner is that the money of his deposits were not given credit to his account so far and in fact, the Second Respondent Bank is showing its deaf ears to his repeated requests. Subsequently, he presented



a representation on 24.01.2014 to the Second Respondent. Also on 18.02.2016, the Petitioner had addressed a representation to the First Respondent. In fact, on 23.02.2016, the Assistant General Manager of the First Respondent/ Canara Bank had addressed a communication to the Petitioner stating as under:

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"We have advised our East Masi Street, Madurai branch to resolve the issue if no other issues are pending relating to the deposits made by you and the Guarantee referred in your letter."

7. In view of the fact that the Respondents have unlawfully withheld the Petitioner's amount, he has filed the present Writ Petition praying for passing of an order by this Court in directing the First Respondent to instruct the Second Respondent to disburse the maturity proceeds of deposits totalling in all a sum of Rs.3,01,386/- with applicable rate of interest at periodical intervals as per the guidelines of the Bank keeping in tune with RBI directives to him along with costs.

8. At this stage, this Court has perused the representation of the Petitioner dated 24.01.2016, addressed to the Second Respondent, also, this Court had perused the Petitioner's representation addressed to the First Respondent dated 18.02.2016, in both the representations, he had only sought for refund of the deposits in question. Based on the representation of the Petitioner dated 18.02.2016, addressed to the First Respondent, the Assistant General Manager of the First Respondent Bank had advised the Second Respondent/Senior Manager, Canara Bank, East Masi Street, Madurai, to resolve the issue if no other issues are pending relating to the deposits made by him and the guarantee referred in his letter.

9. Considering the fact that the Assistant General Manager of the First Respondent/Canara Bank had addressed a communication dated 23.02.2016, to the Petitioner, wherein it was mentioned that the Second Respondent/Senior Manager, Canara Bank, East Masi Street, Madurai was advised to resolve the issue and till date there is no progress in the subject matter in issue, at this stage, this Court, without expressing any opinion on the merits of the matter and also not delving deep into the issues centering around the refund of deposits claimed by the Petitioner, at this stage, simpliciter, directs the Second Respondent to seriously and earnestly to look into the contents of the letter of the Assistant General Manager of the Canara Bank dated 23.02.2016 in a fair, free, unbiased and dispassionate manner and to pass necessary speaking orders on merits in the subject matter in issue within a period of two weeks from the date of receipt of a copy of this order (in pursuance by providing necessary opportunity to the Petitioner by adhering to the principles of natural justice).



10. With the aforesaid observation and direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(AE)

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/True copy/

Sub Assistant Registrar

To

1. The General Manager,

Canara Bank,

Customer Service Section, Circle Office,

East Veli Street, Madurai, Madurai District.

2. The Senior Manager,

Canara Bank, East Masi Street, Madurai, Madurai District.

+2 cc's to M/s.R.Murugan, Advocate in SR.No.35315

+1 cc to M/s.M.Ramamoorthy, Advocate in SR.No.35447

akv

CSL/AAL-MPA/20.07.2016 :4P/6C

W.P. (MD) No.11024 of 2016

06.07.2016