

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Crl.RC.No.1066 of 2017

M.Ansar

...Petitioner

.Vs.

1. The Oriental Benefit Fund Ltd.,
represented by G.H.Krishna Kumar,
No.108, Audiappa Naicken Street,
Chennai 600 079.
 2. G.H.Krishna Kumar
 3. K.M.Gopakumar
 4. The Superintendent of Police
EOW.II, Chennai, Sidco complex,
Guindy, Chennai - 600 032.
 5. Competent Authority/D.R.O
Singaravelar Maligai,
Chennai - 600 001.
- ... Respondents

Prayer: Revision filed under section 397, r/w 401 Cr.P.C against the order dated 26.04.2012 passed in Crl.M.P.No.482/2011 on the file of the learned Special Judge under TNPID Act, Chennai.

For Petitioner : Mr. S.Abdul Malik

For Respondents : Mr.D. Suresh for R1 & R3

For Respondents : C.Iyyapparaj for R4 & R5

JUDGMENT

This Criminal Revision Case has been filed as against the order passed by the learned Special Judge under TNPID Act, made in CRL.MP No. 482 of 2011 in Crime No.12/2005 dated 26.04.2012.

2.It is the case of the petitioner that he borrowed a loan for Rs.1,00,000/- from the 1st respondent namely, the Oriental Benefit Fund Ltd., Chennai, on 16.10.2000, by mortgaging the property document of the petitioner i.e., the property situated in Block No.7, Plot No.18, Phase - I A Type Kaviarasu Kannadasam Nagar, Chennai 600 118, for a period of 96 months at the rate of 12.6% per year and the EMI was fixed as Rs.2,120/- per month. However, the said Benefit fund limited was taken over by EOW II under TNPID act on 21.02.2005 in Crime No.12 of 2005 and therefore, all the records and documents which were in possession of the first respondent/ Benefit fund limited was seized by the fourth respondent i.e. EOW II where the documents of the petitioner's property had been seized.

3.It is the further case of the petitioner that the petitioner had already paid a sum of Rs.66,074/- towards repayment of the loan of

Rs.1,00,000/- borrowed from the first respondent. The remaining amount of both the principal and interest has to be paid. Hence, the petitioner had approached the Court below that the remaining balance amount would be paid by the petitioner and based on which he can be discharged from the liability and accordingly the documents deposited by him to the first respondent/Oriental Benefit Fund Ltd., has to be released.

4. After hearing the concerned parties, the learned Judge by order dated 04.04.2012 has passed the following orders:

"In the result, this petition is allowed and the petitioners are directed to obtain the D.D for Rs.1,71,279/-(Rupees one lakh seventy one thousand two hundred and seventy nine only) in favour of Competent Authority/District Revenue Officer to the credit of Cr.No.12/2005 of EOW II, Chennai on or before 25.04.2012 and on deposit of such amount by way of demand draft the 4th respondent is directed to return the petition mentioned documents to the petitioner, failing which this petition stands dismissed. Call on 26.04.2012."

5. Since the said condition imposed by the learned Judge as extracted above by order dated 04.04.2012, was not complied with or could not be complied with by the petitioner, the said Court by further order dated 26.04.2012 has passed the following orders:

“The petition is filed U/s.451 Cr.Pc to release the documents pertaining to the property at Block No.7, Plot No.18, phase-I 'A' type, Kaviarasu Kannadasan Nagar, Chennai - 118.

Conditional order not complied with. Hence, the petition is dismissed.

Pronounced by me in open Court, this the 26th day of April, 2012”

As against the said order, the present revision case has been filed.

6. I have heard Mr.S.Abdul Malik, learned counsel appearing for the petitioner and Mr.D.Suresh, learned counsel appearing for respondents 1 and 3 as well as Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the respondents 4 and 5.

7. When this case came up for hearing on 16.03.2017, my predecessor has referred the matter to the Tamil Nadu Mediation and Conciliation Centre, to explore the possibility of settlement. Accordingly, the matter was referred to the said Centre.

8. Before, the Mediation and Conciliation Centre, since the petitioner and the first and third respondent have come forward to arrive at a settlement by thus on payment of Rs.1,00,000/- as full and final settlement towards the remaining principal and interest payable by the petitioner to the third respondent/Benefit Fund Limited, they agreed upon to settle the matter.

9. Accordingly, the said settlement as projected by both the parties had been reduced in writing and a Joint memo of compromise to that effect has been filed by both the parties before the mediation centre. The mediation centre on taking into account of the said compromise memo filed by both the parties, has sent a Mediation report dated 20.07.2017, stating that the matter has been settled between them, as per the terms cited in the memo of compromise enclosed. Hence, the matter was sent back to this

Court.

10. I have perused the compromise Memo filed by both the parties i.e., the petitioner and the 1 and 3rd respondent as well as the mediation report sent by the Tamil Nadu mediation and concillation centre.

11. Since the parties had agreed upon to settle the matter by depositing a sum of Rs.1,00,000/- towards the full and final settlement for the entire arrears and principal with accrued interest thereon, this Court is of the considered view that the said settlement can be accepted and accordingly, further Course of action can be proceeded.

12. In pursuance of the said settlement reached between the parties, the learned counsel appearing for the petitioner has produced a Demand Draft dated 27.05.2017 drawn in favour of the 5th respondent, who is the DRO of chennai in Crime No.12 of 2005, taken at Indian Bank, M.K.B.Branch, for a sum of Rs.1,00,000 with D.D.No.078865.

13. In these circumstances, and in consideration of the abovesaid facts, this Court is inclined to pass the following Orders:

a.that the petitioner will deposit a sum of Rs.1,00,000/- taken up by

way of Demand Draft pursuant to the settlement reached between the petitioner and the first and third respondent, as reported by the Tamil Nadu Mediation and Concillation Centre, at the 5th respondent office i.e., DRO Chennai in Crime No.12 of 2005, who is the competent authority under the TNPID Act, within a period of one week from the date of receipt of copy of this order.

b. On such deposit being made the trial Court i.e., the Special Judge under TNPID act, Chennai, shall pass an order directing the fourth respondent, in whose custody the property documents of the petitioner is lying, to release the said documents to the petitioner with proper receipt and acknowledgment from the petitioner. The above exercise shall be undertaken within a period of two weeks thereafter.

With these directions, this Criminal Revision Case is disposed of.

सत्यमेव जयते

11.08.2017

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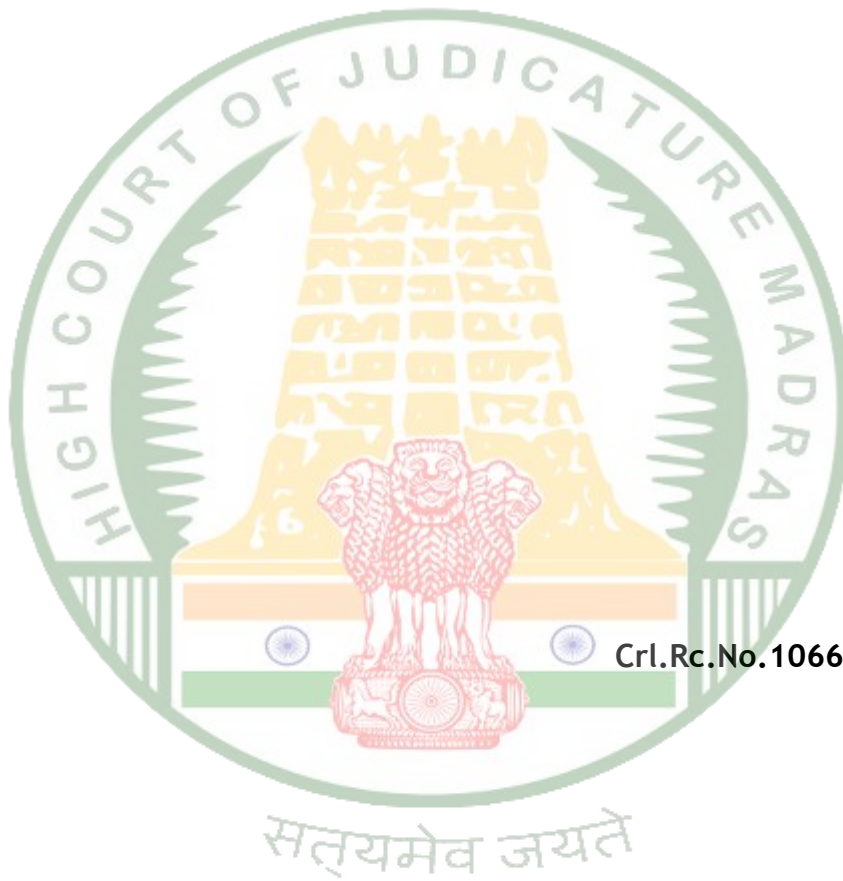
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R.SURESH KUMAR,J,

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