

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.331 of 2018
and
W.M.P.No.386 of 2018

BR & Co,
represented by its Partner,
M.R.Rajaram Kumar,
S/o Ramatheerathan,
No.1A, Subramaniya Layout,
Ramanathapuram,
Coimbatore - 641 045.

... Petitioner

Vs.

1.The Reserve Bank of India,
South Zone Office, rep.by
Zonal Officer, Rajaji Salai,
Fort Glacis, Chennai.

2.IDBI Bank Ltd,
represented by Managing Director,
IDBI Tower, WTC Complex,
Cuffe Parade, Mumbai 400 005.

3. The Authorised Signatory,
Coimbatore Branch
IDBI Bank Ltd.,
No.72, Mayflower E Castle,
Dr.Balasubramaniam Road,
Off Avinashi Road,
ATT Colony,
Coimbatore 641 018.

4. M/s. Treat Water Technology,
rep. By its Managing Partner,
C.P. Padmanabhan, having office at
17-D, Cowley Brown Road,
R.S.Puram, Coimbatore- 641 002.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records of the 3rd respondent in and by his proceedings No.Nil dated 03.01.2018 and quash the same.

For Petitioner : Mr.A.Sundaravadhanan
For Respondents : Mr.Shivakumar
for
M/s.Shivakumar & Suresh
for R2 and R3
No appearance for R1

O R D E R

The petitioner is aggrieved against the proceedings of the 3rd respondent dated 03.01.2018, wherein and whereby, the petitioner's Account No.0006102000069571 was frozen with the available balance amount of Rs.1,32,11,711.70.

2. Heard both sides and perused the impugned order.

3. On 25.01.2018, when the matter was heard earlier, the learned counsel appearing for the petitioner submitted that without prejudice to the contentions raised in the Writ petition, the petitioner is willing to make some payment which the Bank may consider. Accordingly, the matter was adjourned for the parties to negotiate. Therefore, when the matter was taken up on 01.02.018, the learned counsel for the petitioner submitted that a proposal was given to the respondent bank for its consideration. Thereafter, the matter was adjourned twice and now, posted today for further hearing.

4. Learned counsel for the petitioner submitted that out of the amount so frozen from the petitioner's account, a sum of Rs.1 Crore may be kept in the fixed deposit and the balance amount may be allowed to be utilised by the petitioner so as to enable them to run the business.

5. On the other hand, the learned counsel appearing for the respondent Bank submitted that the freezing of the petitioner's account was made in accordance with the terms and conditions of the financial agreement entered into between the parties and therefore, the petitioner cannot challenge the same as the petitioner is also one of the partner in the defaulting company, namely, the 4th respondent.

6. Upon hearing the learned counsels appearing on either side and considering the above facts and circumstances, this Court is of the view that the dispute between the parties is arising out of a financial agreement entered between them and therefore, if any dispute arises between them out of such

agreement or in respect of any proceedings initiated in terms of the said agreement, this Court, while exercising the jurisdiction under Article 226 of the Constitution of India, undoubtedly, a discretionary jurisdiction, need not necessarily go into all those disputed question of facts, as it is for the parties to agitate the matter before the appropriate forum by filing appropriate proceedings. Initially, this Court was of the view that the matter would be settled between the parties by way of negotiations and hence, adjourned the matter on several occasions. However, as it appears that the parties are not willing to settle the matter amicably, it is for them to work out their remedy before the appropriate forum by filing appropriate proceedings. Hence, the writ petition is disposed of without expressing any view on the merits of the claim made by the respective parties, however, by granting liberty to the petitioner to work out their remedy before the appropriate forum by filing appropriate proceedings. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Zonal Officer,
Reserve Bank of India,
South Zone Office, Rajaji Salai,
Fort Glacis, Chennai.
2. The Managing Director,
IDBI Bank Ltd, IDBI Tower,WTC Complex,
Cuffe Parade,Mumbai 400 005.
3. The Authorised Signatory,
Coimbatore Branch, IDBI Bank Ltd.,
No.72, Mayflower E Castle,
Dr.Balasubramaniam Road, Off Avinashi Road,
ATT Colony, Coimbatore 641 018.

+1cc to Mr.Shivakumar, Advocate, S.R.No.11654

+1cc to Mr.A.Sundaravadhanan, Advocate, S.R.No.12225

W.P.No.331 of 2018

AK(CO)

CS/05/03/18