IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.17036 of 2017
and
W.M.P.Nos.18493 and 18494 of 2017

R.S.Shanmugam ... Petitioner

vs.

1. Reserve Bank of India,
   Rep by Assistant General Manger,
   Fort Glacis, No.16, Rajaji Salai,
   Chennai - 600 001.

2. Manapuram Finance Limited,
   Manappuram House,
   P.O.Valapad, Thrissur,
   Kerala - 680 567.

3. The Branch Manager,
   Manapuram Finance Limited,
   5 Roads, Junction Main Road,
   Mithra Scans Upstairs,
   Salem. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Mandamus directing the respondents 2 and 3 to regulate the rate of interest as per RBI guidelines and Fair Practices Code evolved by RBI and as per the directions passed by the Division Bench of this Hon'ble Coourt in W.P.(MD) No.14627 of 2012.

For Petitioner : M/s. R. Subramanian
For Respondents: Mr.J.Senthamilarasu for R2 & R3
No Appearance for R1

O R D E R

The grievances of the writ petitioner is that, the respondents No.2 and 3 are charging interest exorbitantly in violation of the Reserve Bank of India guidelines and the circulars issued in this regard.

2. The learned counsel appearing for the petitioner made a submission that the writ petitioner is the borrower and he prepared to settle the entire loan and the only grievance is that the respondents No.2 and 3 are acting in violation of the Reserve Bank of India regulations and circulars issued for charging interest for the loan amounts.

3. The learned counsel for the writ petitioner cited the judgement of the Hon'ble Division Bench of this Court dated 14.11.2014, in Writ Petition (MD) No.14627 of 2012 and the relevant paragraphs are extracted here under:-

> "6. We are, thus, of the view that the Reserve Bank of India cannot wash its hands off in the face of the Circulars, by its impugned communication dated 03.05.2012, which is clearly misconceived. The own stand of the Reserve Bank is that charging excessive rates would be in violation of the Fair Practices Code. Thus, even if the Reserve Bank does not specify the rates of interest, it is certainly required to keep a tab on the issue of excessive rates being charged, more so when it has issued the aforesaid circulars and make sure that they are send to all Regional Offices.
>
> 7. We cannot but notice the fact that there are a number of not well educated borrowers, who borrow for personal need, whether against security, gold or otherwise. This country had history of money lenders who charged excessive rates, leading to penury and loss of assets. It has been the professed policy of the government to remove such a prevalent situation and thus various norms for financial institutions were brought into force, and other steps taken like the nationalization of banks at the relevant stage. The objective certainly cannot be to create a new class of institutional money lenders, labelled as NBFCs. We are thus surprised that the Reserve Bank of India seeks to wash its hands off the issue by its communication dated 03.05.2012.
>
> 8.We thus quash the impugned communication, dated 03.05.2012, and issue directions to the Reserve Bank of India to look into the matter, in terms of its own Fair Practices Code as well as Circulars and Notifications issued from time to time and referred to above.
>
> 9. The learned Assistant Solicitor General, appearing for the 1st respondent, also assures us that the aforesaid issue would receive attention of the concerned authorities."

4. This court is of an opinion that, the respondents No.2 and 3 are also bound to follow the circulars and the regulations issued by the Reserve Bank of India while charging interest and for following procedures in this regard.

5. This being the factum, the respondents No.2 and 3 are directed to consider the representation submitted by the writ petitioner on 30.03.2017 and on 22.06.2017 and pass orders on merits and in accordance with law within the period of 12 weeks from the date of receipt of a copy of this order. The writ petitioner is directed to enclose the copy of the

representations and other relevant documents including the circulars and regulations issued by the Reserve Bank of India along with the order passed in this writ petition.

6. Accordingly the writ petition stands disposed of. There shall be no order as to Costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(Cs IX)

//True Copy//

Sub Assistant Registrar

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To

1. Reserve Bank of India,
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3. The Branch Manager,
Manapuram Finance Limited,
5 Roads, Junction Main Road,
Mithra Scans Upstairs,
Salem.

+1cc to Mr.R.Subramanian, Advocate SR.NO.64359

SR.(co)
sm:10.10.2018