



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 13029 of 2016
and
W.M.P. (MD) No. 10482 of 2017

R. Suresh Kumar

... Petitioner

Vs.

1. The Chief General Manager and Secretary
Secretary's Department,
Reserve Bank of India,
16th Floor, Central Office Building,
Shahid Bhagat Singh Marg,
Mumbai-400 001.

2. Banking Ombudsman
Tamilnadu and Pondicherry,
Fort Glacis, No. 16, Rajaji Salai,
Chennai-600 001.

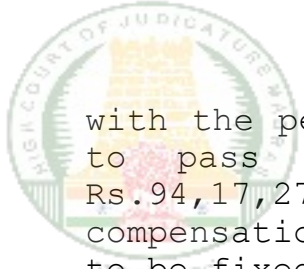
3. Karur Vysya Bank,
Registered Office
Through its Managing Director,
Erodd Road,
Karur-639 002.

4. Karur Vysya Bank,
Nagercoil Branch
Through its Branch Manager,
No. 47, 1st Floor Court,
Nagercoil.

5. P. K. Suresh,
Branch Manager
Karur Vysya Bank
Nagercoil Branch,
Nagercoil.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari and Mandamus, to call for the records relating with the order of the second respondent, made in Ref. No. BO (Che)/5800/F-2014/15006004060 and 004076/2014-2015 dated 01.04.2015 and quash the same as arbitrary and illegal and in consequence to direct the second respondent to conduct the enquiry



with the petitioner's complaint against the respondents 3 and 4 and to pass appropriate order against them to pay a sum of Rs.94,17,279/- towards the monitory loss, along with the compensation of Rs.1 crore, with interest at 15% P.A, within a time to be fixed by this Court.

For Petitioner :Mr.R.Suriya Narayanan

For R1 & R2 :No appearance

For R3 & R4 :Mr.Pala Ramasamy

For R5 :Mr.D.Sadiq Raja

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is running a proprietary concerned in the name and style of M/s.Suvetha Force. The petitioner's allegation is that one Naveen who was working as a Manager in the writ petitioner's concern, opened an account with the fourth respondent in the name of the writ petitioner's concern. Thereafter, he encashed the cheques that had been issued in the name of the writ petitioner's concern.

3.According to the writ petitioner, the fourth respondent did not follow the KYC norms and directives issued by the RBI before opening an account in the name of M/s.Suvetha Force at the instance of the said N.Suresh Prakash as well as the employee of the writ petitioner. As a result, the writ petitioner was put to huge financial loss because the cheques issued in the name of the writ petitioner were unfortunately encashed. The petitioner therefore lodged a complaint before the Banking Ombudsman. The Banking Ombudsman, by the impugned order dated 01.04.2015, rejected the complaint on the ground that set out in clause 8 of the Banking Ombudsman Scheme, 2006, issued by the M/s.Suvetha Force. This order is under challenge in this writ petition.

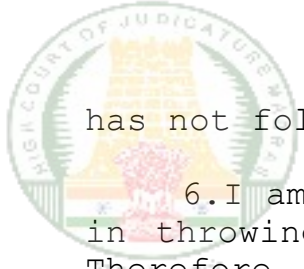
4.Clause 8 of the said Scheme sets out a number of grounds, on which, the complaint can be filed before the Banking Ombudsman. Clause 8 (t) and 8 (x) of the Banking Ombudsman Scheme, 2006, read as under.

8.Grounds of Complaint:-

(t):Non-adherence to the fair practices code as adopted by the Bank.

(x):Any other matter relating to the violation of the directives issued by the Reserve Bank in relation to banking or other services.

5.The petitioner's specific case is that the fourth respondent



has not followed the directive issued by the RBI.

6.I am of the view that the second respondent was not justified in throwing out the petitioner's complaint at the very threshold. Therefore, the order impugned in this writ petition stands quashed. The matter is remitted to the file of the second respondent who shall decide the matter afresh and in accordance with law. The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar(CS)

+1cc to Mr.PALA RAMASAMY, Advocate, SR.No. 61942
+1cc to Mr.D.Sadiq Raja, Advocate, SR.No. 61866
+1cc to Mr.R.Suriya Narayanan, Advocate, SR.No.61753

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