IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2020

C O R A M

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.5531 of 2017
&
WMP.No.5876 of 2017

C.Noorandan ... Petitioner

Vs.

1.The Branch Manager,
State Bank of India,
Palacode Branch,
Dharmapuri District.

2.The Branch Manager,
State Bank of India,
A.Mallapuram Branch,
Palacode Taluk,
Dharmapuri District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus forbearing the respondents from withholding savings bank account of the petitioner with the first respondent bank vide A/c.No.33115162594.

For Petitioner : Mr.M.Vinoth

For Respondents : Mr.K.Chandrasekaran

ORDER

This writ petition has been filed for a mandamus to forbear the respondents from withholding savings bank account of the petitioner with the first respondent bank vide A/c.No.33115162594.

2. It is the case of the petitioner that he is owning agricultural lands in his village and his entire family is solely depending on the agricultural income derived from and out of the agricultural land. It is also the case of the petitioner that apart from owning agricultural land, he is also practicing as Advocate at Palacode and its vicinity. According to him, due to the failure of the monsoon in the year 2013, he was constrained to approach the second

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respondent for grant of crop loan and accordingly, the second respondent bank sanctioned two crop loans: one for a sum of Rs.1,91,000/- and another for a sum of Rs.1,70,000/- in the year 2013. According to him, he had also executed equitable mortgage in favour of the second respondent bank for availing the aforesaid two loans.

3. According to the petitioner, since he was unable to procure yields and profits from and out of the cultivation, he was unable to repay the loans to the second respondent bank. It is his case that he is having savings bank account with the first respondent bank in A/c.No. 33115162594 and is operating the said account regularly for his daily needs. According to him, to his shock and surprise, the first respondent sent a message to his mobile number stating that his savings bank account has been put on hold on 24.11.2016, without assigning any reason and without providing any opportunity.

4. It is the case of the petitioner that the second respondent bank cannot exercise lien in respect of the aforementioned savings bank account in respect of non-repayment of the two loans referred to above availed by the petitioner from the second respondent Bank. It is also his case that arbitrarily without any prior notice, the second respondent bank has exercised their lien in respect of savings bank account held by the petitioner with the first respondent bank vide A/c.No. 33115162594.

5. It is also the case of the petitioner that the second respondent bank is fully secured by the execution of equitable mortgage by him in respect of his property with the second respondent. Therefore, according to him, in addition to that the second respondent cannot exercise lien over the savings bank account namely A/c.No.33115162594 of him. According to him, lien exercised by the second respondent bank in respect of savings bank account No. 33115162594 is not in accordance with law and it has to be set aside.

6. A counter affidavit has also been filed by the second respondent bank wherein they have stated that the petitioner owed a sum of Rs.27,62,341/- as on 31.12.2019 in respect of various loan accounts wherein the petitioner either stood as a borrower or as a guarantor. According to the second respondent bank, the loan accounts were classified as non performing assets. According to them, exercising the power available under Section 171 of the Indian Contract Act, they have exercised lien over the savings bank account No. 33115162594 held by the petitioner. According to them, the lien exercised by the second respondent is only in accordance with law and there is no violation of any statutory provisions.

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7. Heard Mr.M.Vinoth, learned counsel for the petitioner and Mr.K.Chandrasekaran, learned counsel for the respondents.

8. Admittedly, the petitioner is a defaulter in the repayment of the loans to the second respondent bank. The petitioner has himself admitted in his affidavit that he is a defaulter with the second respondent bank. It is also not in dispute that the petitioner is maintaining the savings bank account No.33115162594 with the second respondent bank.

9. Section 171 of the Indian Contract Act reads as follows:

> "171. General lien of bankers, factors, wharfingers, attorneys and policy brokers
> Bankers, factor, wharfingers, attorneys of a High Court and policy brokers may, in the absence of a contract to the contrary, retain as a security for a general balance of account, any goods bailed to them; but no other persons have a right to retain, as a security for which balance, goods, bailed to them, unless there is an express contract to that effect."

10. As seen from the section 171 of Indian Contract Act, the second respondent bank has got the power to exercise general lien in respect of outstandings due to them. The petitioner, being a defaulter who has not repaid the loans, the second respondent has rightly exercised the general lien available to them under Section 171 of Indian Contract Act.

11. Having rightly exercised the general lien under Section 171 of Indian Contract Act, there is absolutely no merit in this writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Branch Manager,
State Bank of India,
Palacode Branch,
Dharmapuri District.

2.The Branch Manager,
State Bank of India,
A.Mallapuram Branch,
Palacode Taluk,
Dharmapuri District.

+1cc to Mr.K.Chandra sekaran, Advocate SR.4204

W.P.No.5531 of 2017

PVS(CO)
CB(04/03/2020)

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