IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2020

C O R A M

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.17780 of 2017
&
W.M.P.No.19291 of 2017

NR Raghuram & Co,
Rep by its Proprietor N.Raghuraman,
"Narayan Niwas"
D.No.17/1, 1st Floor, MKP Colony,
Main Road, Ganapathy,
Coimbatore - 641 006. ... Petitioner

Vs.

1.Indian Banks' Association
World Trade Centre
6th Floor, Central Building,
World Trade Centre Complex,
Cuff Parade, Mumbai - 400 005.

2.Federal Bank,
Federal Towers,
P.O.Box No.107,
Aluwa, Kerala, India.

3.State Bank of India,
CCO Department,
Local Head Office, Chennai.

4.Andhra Bank,
CMRD, Zonal, Office Coimbatore,
No.581/1 D.B.Road, R.S.Puram,
Coimbatore - 641 002. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus to direct the first respondent to forthwith remove the name of the petitioner from the caution list uploaded by them in their web page.

For Petitioner : Mr.S.Mukunth

For Respondent 1 : Mr.S.Sethuraman

For Respondent 2 : Mr.A.V.Radhakrishnan

For Respondents 3 & 4 : No appearance

ORDER

This writ petition has been filed for a mandamus to direct the first respondent to remove the name of the petitioner from the caution list uploaded by them in their web page.

2. It is the case of the petitioner that he was appointed as an approved valuer by the Federal Bank by their appointment letter dated 10.09.2013. It is his case that in accordance with the said letter, the Federal bank empanelled him as a valuer. According to him, he has been dutifully doing his service. It is his case that the second respondent has terminated his service as a valuer for their bank and they have also intimated the termination to the first respondent association who has now hosted the petitioner's name in their website in the caution list. According to the petitioner, due to the improper termination of the petitioner as an approved valuer by the second respondent bank and the hosting of the petitioner's name in the caution list by the first respondent association, the third respondent as well as the fourth respondent banks have also unlawfully terminated the services of the petitioner as an approved valuer for them.

3. According to the petitioner, he has not flouted any of the bank rules nor has he valued the property of the second respondent's customers at higher market value to benefit the borrowers of the second respondent bank. It is his case that arbitrarily and illegally the first respondent, based on the complaint given by the second respondent bank, has put the name of the petitioner in the caution list in their website as if the petitioner has violated the rules and regulations of the bank while valuing the properties of the borrowers. Aggrieved by the same, this writ petition has been filed.

4. Separate counter affidavits have been filed by the first respondent as well as the second respondent

5. As seen from the counter affidavit filed by the first respondent, they have categorically pleaded that they have put the petitioner's name in the caution list of their website, only on the complaint lodged by the second respondent bank against the petitioner with regard to improper valuation of the properties belonging to the second respondent banks customers.

6. As seen from the counter affidavit filed by the second respondent, while processing a housing loan for one of its customers, the petitioner had over valued the properties of the customers and subsequently, reduced the value from Rs.1,15,000/- per cent to Rs.1,00,000/- per cent. It is also their case that once again, it was noticed by them that due to over valuation by the petitioner, the property of one other customer who had availed housing loan at Coimbatore was over

valued. According to them, the property was valued at Rs.17,00,000/- per cent by the petitioner and on further enquiry, they found that the property will fetch only Rs.10,00,000/- to Rs.12,00,000/- per cent. According to them, only in such circumstances, a complaint was given to the first respondent for uploading the petitioner's name in the caution list of the first respondent website.

7. Heard Mr. S.Mukunth, learned counsel for the petitioner, Mr.S.Sethuraman, learned counsel for the first respondent and Mr.A.V.Radhakrishnan, learned counsel for the second respondent. Despite service of notice on the respondents 3 and 4 and their names having been printed in the cause list today, there is no representation on their side.

8. According to the learned counsel for the petitioner, the first respondent without any prior notice has put the petitioner's name in the caution list of their website. According to him, the petitioner has not violated the rules and regulations of the bank while valuating the properties of the customers of the second respondent bank. Further, it is his case that due to the hosting of the petitioner's name in the caution list in the first respondent website, other banks have also stopped giving the petitioner any business for valuation work. It is also his case that without any enquiry, the third and fourth respondent banks have also stopped giving business to the petitioner for valuation work and they have terminated the petitioner's services. According to the learned counsel for the petitioner, the action of the first respondent is arbitrary, unreasonable and unconstitutional.

9. However, the learned counsel for the first respondent would submit that the first respondent association represents all the banks and whenever they receive any complaint from the member banks, they act accordingly and host the defaulter in their website. In the case on hand also based on the complaint given by the second respondent against the petitioner, the petitioner's name has been uploaded in the caution list of the first respondent website. It is also their case that a show cause notice was issued by the second respondent bank to the petitioner for which a reply was sent by him and only thereafter orders were passed by the second respondent terminating the services of the petitioner.

10. The learned counsel for the second respondent drew the attention of this Court to the appointment letter dated 10.09.2013, empanelling the petitioner as a valuer. According to him, the second respondent has got every right to terminate the service of the petitioner in accordance with clause 4 of the said appointment letter. Further it is his case that due to irregularities committed by the petitioner in the valuation of the properties of their customers, they have properly terminated the service of the petitioner.

Discussion:

11. Admittedly, in the instant case, the complaint has been lodged only by the second respondent against the petitioner. Insofar as other remaining banks which includes the third and fourth respondents are concerned, no orders for removal of the petitioner as their valuer has been passed. Even though no orders for removal of the petitioner's service as a valuer has been passed by other banks, hosting of the petitioner's name in the caution list of the first respondent website will indeed affect the petitioner's fundamental right to carry on his business as a valuer for other banks despite the fact that there is no complaint given by other banks against the petitioner.

12. Admittedly, the petitioner has been appointed by the second respondent only based upon the appointment letter issued by them on 10.09.2013 which makes it very clear that the second respondent bank reserves its right to stop using the service of the petitioner at any time without assigning any reason and without giving any notice to the petitioner. Therefore, even without assigning any reason, the second respondent bank has got the power to terminate the services of the petitioner.

13. However, the first respondent based on the complaint received from the second respondent bank, with regard to the irregularities committed by the petitioner in the valuation of the properties, the first respondent has hosted the petitioner's name in the caution list in their website affecting his business interest with other member banks of the first respondent association. This will amount to deprivation of fundamental rights of the petitioner, to carry on his business as a valuer with other banks. Insofar as other banks are concerned, there is no finding against the petitioner that he has indulged in unfair practices, guilty of professional misconduct, violated code of ethics and professional practice. Even as per clause 1.4 of the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India, the said requirement is mandatory. In the case on hand, since there is no finding that the petitioner has committed any of the aforementioned irregularities, with regard to other banks, the hosting of the petitioner's name in the caution list of the first respondent website is arbitrary, and unconstitutional.

14. Clause 1.4 and 1.5 of the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India reads as follows:

> "1.4 Removal
>
> In extreme cases where the valuer has been found to be indulging in unfair practices, guilty of professional misconduct, violating the code of ethics and professional practice, he

shall be removed from the panel. The procedure to be followed by the banks / housing finance institutions shall comprise of the following steps :

- issue of show cause notice
- hearing
- appropriate action, including removal from the panel for a period of five years, if charges are found serious

1.5 Re-Empanelment

Valuers once removed from the panel of any bank or housing finance institution could be re-empanelled again after a specified period, based on the recommendations of the bank Conflict Resolution Committee. Names of valuers removed shall be reported to the Indian Banks' Association which in turn shall place the names on its caution list."

15. Further, even under the appointment letter issued by the second respondent, there is no reference that the petitioner has been put on notice about the handbook on policy standards and procedures for real estate valuation by banks and housing finance institutions in India which the first respondent relies upon.

16. For the foregoing reasons, this Court directs the first respondent to remove the name of the petitioner from the caution list in their website within a period of one week from the date of receipt of a copy of this order. However, it is made clear that insofar as the second respondent bank is concerned, they are at liberty to terminate the services of the petitioner in accordance with the appointment letter dated 10.09.2013 which permits them to terminate without reason and without any prior notice.

17. With the aforesaid directions, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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TO

1.Indian Banks' Association
World Trade Centre
6th Floor, Central Building,
World Trade Centre Complex,
Cuff Parade, Mumbai - 400 005.

2.Federal Bank,
Federal Towers,
P.O.Box No.107,
Aluwa, Kerala, India.

3.State Bank of India,
CCO Department,
Local Head Office, Chennai.

4.Andhra Bank,
CMRD, Zonal, Office Coimbatore,
No.581/1 D.B.Road, R.S.Puram,
Coimbatore - 641 002.

+1cc to Mr.Sarvabhauman Associates, Advocate, S.R.No. 7391
+1cc to Mr.S.Sethuraman, Advocate, S.R.No.7325
+1cc to Mr.A.V.Radhakrishnan, Advocate, S.R.No. 7018

W.P.No.17780 of 2017

VBA(CO)
GN(25/02/2020)