BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.03.2020
CORAM:
THE HONOURABLE **MR.JUSTICE C.V.KARTHIKEYAN**

Writ Petition (MD).No.25644 of 2019
and
W.M.P.(MD).Nos.22212 and 22214 of 2019

Dr.Sivagurunathan ... Petitioner

Vs.

1.Securities and Exchange Board of India,
Mittal Court "B" Wing, I Floor,
224, Nariman Point,
Mumbai 400 021.

2.Securities and Exchange Board of India,
Southern Regional Office,
Overseas Towers,
7th Floor,
756 L Anna Salai,
Chennai 44.

3.The Branch Manager,
I.C.I.C.I. Bank,
Tallakulam Branch,
No.45, Hakim Ajmal Khan Board,
Madurai.
S.B.A/c.600601515069)

4.The Director,
S.B.S.Investments,
Old No.32, New No.2, Yosotha Nagar,
Ist Main Road,
Keelakatalal,
Chennai - 17.

5.P.Srinivasa Thanga Durai ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 to 3 to de-freeze the petitioner's account bearing Savings Account No.600601515069 maintained in the third respondent Bank, by considering the petitioner's representation, dated 23.09.2019, and to further direct the respondents 1 to 3 to remove the 5th respondent name in the above said account and to permit the petitioner to maintain the account as single account holder.

For Petitioner	:	Mr.S.Krishnan
For R1 & R2	:	Mr.C.Prasanna Venkatesh
For R3	:	Mr.J.Alaguram Jothi
For R5	:	Mr.K.Balasubramani

O R D E R

In the morning, at 10.30 a.m., a mentioning was made by the junior counsel of the third respondent requesting adjournment. This Court, on the basis of such request and on the reasons advanced, had granted an adjournment to 20.03.2020. Subsequently, during the calling, a mention was made that the matter can be heard and that the third respondent is only a formal party and it is the petitioner and the first and second respondents who would have to agitate the issues before this Court. The junior counsel of the third respondent is also present. In the presence of all the parties, arguments are heard.

2. The petitioner is a Doctor by profession. He is a specialist in Ear, Nose and Throat diseases. Unfortunately, he got himself entangled with the 5th respondent. He aided the 5th respondent P.Srinivasa Thanga Durai, a resident of Nanmangalam, Old Pallavaram, Tambaram, Chennai. The petitioner did not know that the 5th respondent had been leading a very interesting life and was involved with several activities, which had drawn the attention of the first and second respondents viz., Securities and Exchange Board of India at Mumbai and Chennai. The first and second respondents had passed an order, which was not to the knowledge of the petitioner, on 09.01.2018, by which order, they had proceeded against S.B.S. Investments and its partners viz., P.Srinivasa Thanga Durai and P.Soundaravalli. The petitioner claims that he has nothing to do with S.B.S. Investments or its partners in any transaction relating to S.B.S. Investments, and P.Srinivasa Thanga Durai and P.Soundaravalli. The petitioner had, the fortune or rather the misfortune of obtaining a loan from Bajaj Finance Limited. He wanted to do some real estate business. He then got acquainted with the 5th respondent P.Srinivasa Thanga Durai. They invested the loan amount in the third respondent Bank viz., I.C.I.C.I. Bank, Tallakulam Branch, at Madurai in S.B. Account No.600601515069. This was a joint account between the petitioner and the fifth respondent. In view of the order referred above, passed by the first and second respondents / SEBI, as against S.B.S. Investments and its partners, the first and second respondents, had taken coercive action with respect to all the Bank accounts, where P.Srinivasa Thanga Durai was having, either as sole account holder or as joint account holder. Naturally they

also, by that sweeping order got into their fold, SB Account No.600601515069, wherein the petitioner and the 5th respondent were joint account holders. This order is the reason why the petitioner has come before this Court and claims that the fifth respondent does not have analysing to do with the said account. These are issues of fact, which have to be proved. The petitioner further states that to establish that the money was his, has drawn attention to the loan sanctioned by the Bajaj Finance Limited. That is a fact to be examined and determined. These issues will have to be examined only by the first and second respondents. For that purpose, the petitioner had given a representation on 23.09.2019. He also seeks defreezing of the account in I.C.I.C.I. Bank.

3. The learned counsel for the first and second respondents states that they are duty bound to pass orders on the representation. They would follow due process. Due process would include issuing of notice not only to the petitioner, but also to Bajaj Finance Company Limited, I.C.I.C.I. Bank and also to any other individuals, including the 5th respondent or any other persons, as the said enquiry would require, and then to afford personal hearing, to examine documents, records, submissions and then to pass orders. The petitioner has to participate in the enquiry and prove that the amount now lying in the third respondent Bank account is his own money.

4. Therefore, a Mandamus is issued to the first and second respondents to conduct such enquiry in manner known to law, follow the due process of law and complete such enquiry on or before 30.04.2020.

5. The Writ Petition is disposed of, with the above observation. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

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+1 CC to M/s.C.PRASANNAVENKATESH, Advocate (SR-10655[F] dated 09/03/2020)

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