

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.4203 of 2021

V.C.Ocean Engineering and Consultancy
Private Limited
rep. by its Managing Director S.Sakthivel
Regd. Office - 10(53) Sanjeevi Street
Arumbakkam, Chennai 600 106

Design Office - No.7, Chakravarthy Nagar
Narayanapuram
Pallikaranai, Chennai 600 100.

....Petitioner

Vs.

1. City Union Bank
Abhiramapuram Branch
64, C.P. Ramaswamy Road
Abhiramapuram
Chennai 600 018.

2. The Banking Ombudsman
Office of the Banking Ombudsman
Tamil Nadu and Union Territories of Puducherry
& Andaman & Nicobar Islands
Reserve Bank of India Building (II Floor)
Fort Glacis, Post Box No.40
No.16, Rajaji Salai, Chennai 600 001.

3. The Reserve Bank of India
No.16, Rajaji Salai
Chennai 600 001.

4. The Union of India
rep. by its Joint Secretary
Ministry of Finance
Department of Economic Affairs
New Delhi 110 001.

...Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records of the second respondent in its order dated 06.02.2020 BO/(Che)3632/C-5430/2019-20, quash the same and direct the second respondent to conduct enquiry and pass necessary orders on merits.

For Petitioner : Mr.T.Sundar Rajan

For Respondent-1 : Mr.R.Sivaraman

ORDER

(Made by the Hon'ble Chief Justice)

The case made out by the writ petitioner is that despite the writ petitioner's account being regular, the credit facilities accorded by the respondent bank were surprisingly withdrawn and the bank lodged a claim before the Debts Recovery Tribunal under the Recovery of Debts and Bankruptcy Act, 1993. The petitioner claims that the petitioner approached the Banking Ombudsman for the petitioner's account having been frozen that impeded the petitioner carrying on business. The order of the Banking Ombudsman is one of the matters which has been challenged here.

2. According to the petitioner, the petitioner's account was subsequently treated as a non performing asset and measures have also been taken by the bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The petitioner has also approached the appropriate Debts Recovery Tribunal under Section 17 of the Act of 2002. The proceedings are pending before the relevant Debts Recovery Tribunal.

3. The petitioner claims that the sole purpose for instituting the present proceedings under Article 226 of the Constitution is to obtain a direction on the respondent bank to

allow the petitioner to operate the petitioner's account, subject to the outcome of the proceedings before the Debts Recovery Tribunal.

4. The present petition appears to be an utterly futile exercise. Since the main lis is pending before the Debts Recovery Tribunal, if the petitioner wishes to obtain an incidental order, an appropriate application ought to be made, if permissible, to the Tribunal for such relief.

5. When the bank has a substantial claim that the bank is pursuing and it cannot be conveniently assessed on affidavit evidence as to the rights and liabilities of the parties hereto in the present proceedings, the Court cannot issue a direction commanding a bank to allow a constituent to operate the bank account, despite the constituent being in default and the bank having proceeded against the constituent under the Act of 2002.

6. W.P.No.4203 of 2021 is disposed of by leaving the petitioner free to approach the Tribunal with an appropriate application, if the same is permissible in law. No relief can be granted in the present proceedings. There will be no order as to costs. WMP No.4797 of 2021 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kpl

To

1. The Banking Ombudsman
Office of the Banking Ombudsman
Tamil Nadu and Union Territories of Puducherry
& Andaman & Nicobar Islands
Reserve Bank of India Building (II Floor)
Fort Glacis, Post Box No.40
No.16, Rajaji Salai
Chennai 600 001.

2. The Reserve Bank of India
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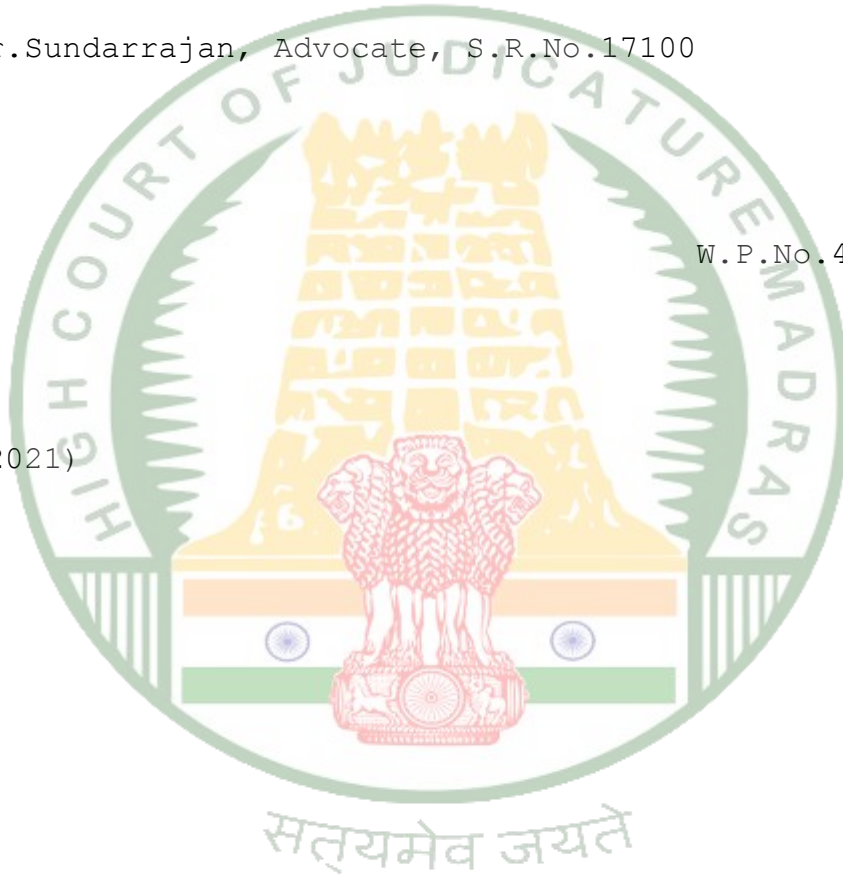
3. The Joint Secretary
Ministry of Finance
Department of Economic Affairs
New Delhi 110 001.

4. The Manager
City Union Banking
Abhiramapuram Branch
64 CP Ramaswamy Road,
Abhiramapuram,
Chennai - 18.

+1cc to Mr.Sundarrajan, Advocate, S.R.No.17100

W.P.No.4203 of 2021

MG (CO)
RN (29/03/2021)



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