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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21402 of 2015

and

M.P.No.1 of 2015

R.S.Sivaprakasam

...Petitioner

Vs

1.Reserve Bank of India,
No.6, Rajaji Salai, Fort Glacis,
Chennai, Tamil Nadu 600 001.

2.The Manager,
Oriental Bank of Commerce
Anna Nagar Branch
II Avenue, Anna Nagar,
Chennai - 600 040.

3.The Regional Manager,
Oriental Bank of Commerce,
Regional Office,
Mount Road, Chennai - 600 002

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 2 and 3 to De-freeze the SB A/c.No.10612191001413 of the petitioner and release the funds lying therein by de-freezing the blocked account and permit the petitioner to operate the account by de-freezing the blocked account.

For Petitioner :Mr.R.Thiagarajan

For Respondents :R1 - No appearance
R2 & R3 - Mr.K.V.Babu

O R D E R

The writ on hand is filed, to direct the respondents 2 and 3 to De-freeze the SB A/c.No.10612191001413 of the petitioner and release the funds lying therein by de-freezing the blocked account and permit the petitioner to operate the account by de-freezing the blocked account.



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2. The petitioner states that he is the holder of account in SB A/c.10612191001413 in the 2nd respondent Bank, which has been in operation over three years. The petitioner states that he already been regularly operating the Savings Bank account.

3. The grievance of the writ petitioner is that without any prior notice or communication, the second respondent had frozen the account and therefore, the petitioner is forced to approach this Court. The second respondent filed a counter statement, raising certain irregularities and illegalities regarding the operation of the said Savings Bank Account by the petitioner. The details are made available in Paragraphs 5 and 6 of the counter, which reads as under:

"5. I state that the loan amounts obtained by the 6 companies have not yet been repaid by the respective companies. On branch visit, it has come to light that in the address given by the companies, either the companies do not exist or they have vacated the rented premises. On 17.03.2015, a complaint was filed by the bank with the CBI, Economic Offences Wing about the fraud played by the petitioner and the 6 other companies to a tune of Rs.4.60 crores. The investigation regarding the complaint is still pending.

6. I state that on 15.06.2015, an amount of Rs.50 lacs had come into the S.B. A/C of the petitioner through RTGS. After receiving information about the funds available in the account the Deputy General Manager had advised the Branch Manager, Anna Nagar II nd Avenue to freeze the A/C (debits only) and to block the amount. The same was communicated to the petitioner on 19.06.2015 by way of an e-mail. In the meanwhile, the petitioner tried transferring the said amount through RTGS and through cheque to the account of his mother. Applying the principles of Doctrine of Tracing and Banker's Lien, the bank had the right to block the account of the petitioner and appropriate the funds available as the petitioner was the direct beneficiary of all the loans which were borrowed and which stand unpaid date causing a loss of Rs.1.60 crores on public money."

4. Looking into the allegations and counter allegations, this Court is of an opinion that such disputed facts cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. Such an adjudication require examination of documents and evidences and therefore, the parties have to approach the competent forum for the purpose of resolving the issues. Merely based on the affidavit filed in support of the writ petition, this Court cannot form an opinion regarding the disputes raised.



5. The learned counsel for the respondents 2 and 3, made a submission that the petitioner has to approach the Banking Ombudsman for the purpose of adjudication.

6. This being the submission, the petitioner has to approach the competent authority or the Banking Ombudsman as the case may be for adjudication of issues and for redressing his grievances.

7. With this liberty, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Manager,
Reserve Bank of India,
No.6, Rajaji Salai, Fort Glacis,
Chennai, Tamil Nadu 600 001.

2.The Manager,
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Anna Nagar Branch
II Avenue, Anna Nagar,
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3.The Regional Manager,
Oriental Bank of Commerce,
Regional Office,
Mount Road, Chennai - 600 002

+1 cc to Mr.K.V.BABU, Advocate Sr.NO. 51579

W.P.No.21402 of 2015

BP(CO)
A.SK(25.10.2021)