IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.12.2021
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5104 of 2019

M/s.Integrated Finance Company Ltd.,
rep.by its Authorised Signatory
Mrs.A.Hema Jothi ... Petitioner

Vs.

1.Government of Tamil nadu
rep.by Additional Director General of Police,
Economic Offences Wing II,
SIDCO Old Garments Complex,
Tiru-Vi-Ka-Nagar,
Guindy, Chennai 600 032.

2.The Principal Secretary to Government,
Home Department,
Government of Tamil Nadu,
Fort St.George,
Chennai 600 009. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to attach the properties or collect money to the extent of the default as contemplated under Section 3 of the Tamil nadu Protection of Interest of Depositors Act, 1997 from 29 borrowers/ guarantors / directors of petitioner Company as enumerated in the representation dated 14.11.2012, 12.11.2016 and 29.06.2017 given by the petitioner to the respondents.

For Petitioner : Mr.V.P.Raman
For Respondents : Ms.C.Sangamithirai
Special Government Pleader for R2

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents to attach the properties or collect money to the extent of the default as contemplated under Section 3 of the Tamil nadu Protection of Interest of Depositors Act, 1997 from 29 borrowers/ guarantors / directors of petitioner Company as enumerated in the representation dated 14.11.2012, 12.11.2016 and 29.06.2017 given by the petitioner to the respondents.

2. The case of the petitioner is that he is the authorised signatory of Integrated Finance Company Limited (hereafter referred to as ''Petitioner Company''). The petitioner is a Non Banking Finance Company incorporated in the year 1983 and it is a Public Limited Company with over 20,000 shareholders and they are in the business of Hire purchase, leasing and factoring. During the course of business, the petitioner Company ran into serious financial difficulties in 2005, due to non payment of amounts which were lent to various borrowers. The Reserve Bank of India also prohibited the petitioner Company from accepting deposits and bonds. Subsequently, the petitioner Company has filed a Company Petition before this Court proposing a scheme of compromise with the depositors and bond holders and the said proposal was approved by this Court and the Hon'ble Division Bench of this Court in O.S.A.No.308 of 2006, reversed the order of the learned Single Judge and thereafter, the petitioner Company challenging the said order preferred a Special Leave Petition before the Apex Court.

3. When the matter was pending, the first respondent has registered a case against the petitioner Company based on the complaint from one depositor Mrs.Geetha, on 26.03.2012 under Section 5 of the Tamil Nadu Protection of Interest of Depositors Act, 1997, Section 420 IPC, r/w Section 120B IPC. Thereafter, the respondents 1 and 2 attached the immovable properties and bank accounts of petitioner vide G.O.Ms.Nos.152 and 474 dated 08.03.2013 and 10.07.2013 respectively and the same was challenged before this Court, wherein a stay of the said Government Orders were granted. In the meanwhile, the case pending before the Supreme Court got dismissed and after dismissal, the Federal Bank of India seeking winding up of the petitioner Company, filed C.P.No.172 of 2012, wherein the petitioner has filed C.A.Nos.804, 826 of 2013 for appointment of an Administrator to recover the receivables of the petitioner Company from borrowers and thereafter the petitioner Company settled amounts to the creditor Banks with the permission/assistance of this Court. As against the total liability of Rs.123.59 crores, so far, the petitioner Company had settled Rs.5.58 crores. Simultaneously the petitioner Company took steps against three Corporate Borrowers for settlement and this Court has also directed the borrowers to make payment and in that effect, payment was made to the value of Rs.7 crores and a sum of Rs.460 crores is due from the various borrowers. The petitioner has also filed Civil Suits to recover the said sum and cheque bounce cases against the defaulting borrowers and all are currently pending at various stages in different Courts.

4. Further, the petitioner vide letter dated 18.06.2013 furnished the 1st respondent a list of 558 borrowers for dues over Rs.52 crores owed to the petitioner and all accounts of

them along with necessary particulars have also been given to the 1st respondent to take action against the borrowers and guarantors under Section 3 of the TNPID Act. The 1st respondent has issued notices to very few borrowers, however not taken steps to collect money from them. Furthermore, the petitioner to the 1st respondent vide letter dated 18.05.2017 furnished the status of the 37 borrowers with details of the Execution Petition filed against them and also filed W.P.No.38762 of 2015 for issuance of Writ of Mandamus to direct the respondents to take action against nine borrowers / guarantors of the petitioner Company and to recover a sum of Rs.49 crores and this Court vide order dated 27.07.2016, directed the 2nd respondent to pass appropriate orders based on the recommendations made by the 1st respondent. The petitioner also gave details regarding the nine borrowers to the first respondent, however the 1st respondent have not taken any action. Therefore, the petitioner Company has filed W.P.NO.28460 of 2017 for Writ of Mandamus to direct the respondents to attach the properties or collect money from 525 borrowers / guarantors of petitioner Company and the same is pending.

5. It is alleged by the petitioner that there are 29 borrowers / guarantors of petitioner Company to the value of Rs.512,90,97,798/- crores as on 31.10.2018 and against whom, the petitioner have not filed Civil Suits for recovery as they are under liquidation. The details of the said 29 borrowers were also furnished to the 1st respondent to take action, however no action was taken with the said details. Therefore, the petitioner has filed this petition to direct the respondents to attach properties based on the representation dated 14.11.2012, 12.11.2016 and 29.06.2017 given by the petitioner.

6. The learned counsel appearing for the petitioner submitted that the amount to be recovered by the respondents by taking action to attach the property or collect money from the borrowers, will be beneficial for the depositors and will be used to repay the depositors and therefore, the respondents may be directed to initiate proceedings and taken action to attach the property or collect money from all the borrowers.

7.The learned Special Government Pleader has drawn the attention of this Court to the counter affidavit and made a submission that based on the representations of the petitioner, the Investigation Officer has issued notice to 75 borrowers , however the said borrowers have not responded to the notices. Thereafter, IO has issued notice to the petitioner on three different occasions to furnish the details of the properties of the borrowers and other relevant details to initiate attachment proposal against the properties of them. So far the petitioner has not furnished the property details of the borrowers and further the competent authority is taking appropriate steps to attach the property for recovery of amount from them and thereby, the petitioner may be directed to furnish full relevant details of the borrowers to initiate attachment proceeding against them.

8. Though very many grounds have been raised, in reply to the submission of the learned Special Government Pleader appearing for the official respondents, the learned counsel for the petitioner submitted that this Court may permit the petitioner to furnish necessary particulars of borrowers, who borrowed monies from the petitioner Company and the said details may be furnished to the 1st respondent within a period of one week. Thereafter, the said official may be directed to take appropriate action to attach the properties of the borrower within a stipulated time as fixed by this Court.

9. In view of the aforesaid submissions and consent expressed by the learned counsel on either sides, this Court permits the petitioner to furnish details of the borrowers and monies borrowed by them along with necessary materials, in person, within a period of one week from the date of receipt of a copy of this order and after receipt of the same, the 1st respondent shall initiate appropriate attachment proceedings in terms of Sections 3 and 4 of the Tamil Nadu Protection of Interest of Depositors Act, 1997, within a further period of twelve weeks from the date of receipt of such particulars from the petitioner Company.

10. This writ petition is accordingly disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional Director General of Police,
Economic Offences Wing II,SIDCO Old Garments Complex,
Tiru-Vi-Ka-Nagar,Guindy, Chennai 600 032.

2.The Principal Secretary to Government,
Home Department,Government of Tamil Nadu,
Fort St.George,
Chennai 600 009.

+1 cc to Mr.V.P.Raman, Advocate Sr.NO. 65485
+1 cc to Government Pleader Sr.NO. 65795

W.P.No.5104 of 2019

AD(CO)
A.SK(11.01.2022)