IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.15596 OF 2014

V.Balasubramaniam ... Petitioner

Versus

1. Department of Banking Ombudsman,
   C/o. Reserve Bank of India,
   Reserve Bank of India Building,
   2nd Floor, Rajaji Salai,
   Chennai - 600 009.

2. ICICI Bank Ltd.,
   Rep. by its Branch Manager,
   No.5, Durgai Amman Koil Street,
   Thiruvannamalai - 606 601. .. Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to refund and re-transfer the amount of Rs.1,80,000/-, which was transferred to the fake account number, to the petitioner's account No.619601017273 with the second respondent.

For Petitioner : Mr.G.Rajan

ORDER

This writ petition has been filed by the petitioner seeking to issue a Writ of Mandamus directing the respondents to refund and re-transfer the amount of Rs.1,80,000/-, which was transferred to the fake account number, to his account No.619601017273 with the second respondent Bank.

2. It is stated by the petitioner that his son was in search of a job. While so, he had received a job offer via e-mail from an e-mail ID viz., sidhuitsolutions@gmail.com. On believing the said job offer, he contacted the mobile numbers given in that e-

mail and spoken with some persons, who asked him to deposit a sum of Rs.1,80,000/- to the Account No.699101500950 with ICICI Bank, Varsova Branch, in advance, as security. Believing such representation to be genuine, the petitioner a sum of Rs.1,80,000/- was transferred from his Savings Bank Account bearing No.619601017273 with the second respondent Bank to the said account number. After depositing the money, he also received a confirmation mail, in which, he was directed to visit the company on 23.01.2013. Subsequently, he came to know that the e-mail he received from the e-mail ID viz., sidhuitsolutions@gmail.com was fake and he was cheated by some fraudsters. Therefore, the petitioner gave a complaint to the Superintendent of Police, Villupuram District on 28.01.2013. On receipt of his complaint, the Police officials registered a case in Crime No.274/2013 and forwarded a letter to ICICI Bank, Villupuram, directing the bank to stop the transactions with reference to the deposit reference No.0396365027. Thereafter, the petitioner sent a notice to the second respondent Bank, requesting them to refund the amount of Rs.1,80,000/- which was transferred by his son to the Account No.699101500950 with ICICI Bank, Varsova Branch. He also sent a letter dated 10.08.2013 to the second respondent Bank, regarding the same, for which, the second respondent Bank vide letter dated 20.08.2013, intimated that unless and until, he obtain an order from the Court for re-crediting the above said amount, they will not be in a position to accede to his request. Therefore, the petitioner gave a complaint to the first respondent in this regard. But the first respondent had arbitrarily closed the said complaint vide Letter Ref.No.B09CHE/6770/F-201314006 004470/2013-14 dated 13.01.2014 stating that this sort of online fraud does not fall under Clause 8 of the Banking Ombudsman Scheme 2006 and so, the second respondent is unable to intervene in this matter. By the said letter dated 13.01.2014, the petitioner was directed to approach the appropriate forum to work out his remedy. Hence, left with no other alternative, the petitioner has filed the present writ petition before this Court, for the relief stated supra.

3. The learned counsel for the petitioner submitted that the second respondent Bank is not a party to the online fraud committed by some fraudsters, however, the same was happened only due to the negligence on the part of the second respondent Bank which permitted a fraudster to open the bank account with insufficient particulars. He further submitted that the petitioner approached the second respondent Bank and requested them to refund the amount of Rs.1,80,000/-, which was transferred to the fake account number, to his Account No.619601017273, however, they refused to accede to such request. He therefore prayed that the petitioner may be permitted to approach the respondents afresh, by making a representation.

4. Heard the learned counsel for the petitioner and perused the materials placed before this Court. It is unfortunate that the petitioner fell pray to an online fraudster and lost his hard earned money. At the same time, it must be stated that the petitioner, on his own, had transferred the money without verifying the credentials of the account details furnished by the fraudsters with the respondents bank. Having regard to the above, this Court, without expressing any opinion on merits, permits the petitioner to submit a fresh representation to the respondents. On receipt of such representation, the respondents are directed to consider the same and pass appropriate orders on merits and in accordance with law, as expeditiously as possible, preferably, within a period of four weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mrr/rsh

To

1. The Department of Banking Ombudsman,
C/o. Reserve Bank of India,
Reserve Bank of India Building,
2nd Floor, Rajaji Salai,
Chennai - 600 009.

2. The Branch Manager,
ICICI Bank Ltd.,
No.5, Durgai Amman Koil Street,
Thiruvannamalai - 606 601.

+1cc to Mr.G.Rajan, Advocate, S.R.No.34559

W.P.NO.15596 OF 2014

RP(CO)
PBS/08/09/2021