IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.1278 of 2014

M/s.Canara Bank,
Rep. by its Senior Manager,
Mount Road Branck,
Rayala Towers,
781-785, Mount Road,
Chennai - 600002. ... Petitioner

Vs.

1.Inspector of Police
Cyber Crime Cell,
Central Crime Branch,
Egmore, Chennai - 8.

2.The Manager,
State Bank of India,
Egmore, Chennai - 8.

3.The Manager,
State Bank of India
Uppar Tudil Branch,
Mahad Taluk,
Raigad District, Maharastra.

4.Mable Engineering Pvt. Ltd.,
Rep. by its Managing Director S.Raman
Plot No.66-69, Export Promotion
Industrial Park (EPIP), SIPCOT,
Industrial Complex, Gummidipondi ... Respondents

(R4 impleaded as per order dated 15.03.2019 in W.M.P.No.7647 of 2019 in W.P.No.1278 of 2014)

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the 3rd respondent to revert back the amount, fraudulently transferred from the A/c.No.0911256000773 M/s.Mabel Engineers Pvt. Ltd., to the beneficiary's account, viz., Bilal Ahmedhan Deshnukh, A/c.No.32248828457, State Bank of India, Uppar Tudil Branch, Mahad Taluk, Raigad District, Maharashtra on 27.08.2012 to the petitioner Bank.

For Petitioner : Mr.J.Srinivasa Mohan
For Respondent 1 : Mr.C.Sathish
Government Advocate

For Respondents 2 & 3 : Mr.C.P.R.Kamaraj

For Respondent 4 : Mr.M.Sathiyamoorthy

O R D E R

The respective learned counsels appearing on behalf of the petitioner as well as the respondents 2 and 3 made their submissions.

2.The 2nd respondent, State Bank of India filed a counter affidavit stating as follows:

> "4.) I respectfully state that the averments in para 7, this respondent is ready to transfer the said amount to the Petitioner provided if they furnish an indemnity to that effect as offered by them.
>
> 5.) I respectfully state that regarding the averments in para 8 are denies as wrong which are stating that we are acting over cautious and it is unwarranted is strongly objected by us. Merely on the basis of the closure report of the Investigation officer we cannot come to a conclusion that there is a fraud taken place as the 1st respondent police expressed only their inability to nab the Criminals as they are from Nigeria. It is the Petitioner should have taken all precautious measures before transferring the said sum of Rs.20,00,000/- to the alleged account of our bank and simply on the basis of an email communication without verifying the genuineness of the same, irresponsibly and carelessly acted and blaming us for no fault of us which is condemnable.
>
> 6.) I respectfully state that the averments in 9 are subject to the decision of this Honourable Court. I further state that we are not will fully refusing to release the fund there is some legal impediments to release the amount so we requested the Petitioner to obtain an order from the Court of law to avoid multiplicity of proceedings in the interest of the Public. In addition to that as stated by the Petitioner, if they are ready to make an indemnity to the said amount of Rs.15,27,439/-, We have no objection to release the frozen account and to credit the said amount to the account of the Petitioner."

3. With reference to the above counter affidavit, the learned counsel appearing on behalf of the respondents 2 and 3, the State Bank of India reiterated that in the event of

furnishing Indemnity Bond to the satisfaction of the State Bank of India, they will be in a position to release the funds as per the claim made by the petitioner, M/s.Canara Bank.

4. This being the factum established, the petitioner, Canara Bank is at liberty to execute Indemnity Bond to the satisfaction of respondents 2 and 3.

5. In the event of executing such Indemnity Bond, the respondents 2 and 3 shall consider and release the funds as expeditiously as possible.

6. With this observation, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.Inspector of Police
Cyber Crime Cell,
Central Crime Branch,
Egmore, Chennai - 8.

2.The Manager,
State Bank of India,
Egmore, Chennai - 8.

3.The Manager,
State Bank of India
Uppar Tudil Branch,
Mahad Taluk,
Raigad District, Maharastra.

+1cc to Mr.J.Srinivasa Mohan, Advocate, S.R.No.68171
+1cc to the Government Pleader, S.R.No.68655

W.P.No.1278 of 2014

PL(CO)
CT 15/02/2022