



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cont. P(MD)No.442 of 2021

in

W.P(MD)No.8037 of 2020

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Mahasemam Trust A Public Trust,
Rep. by its Trustee,
Dr.Prabu Vairavan Prakasam,
Having its registered office at
519, 16th Street, Karpaga Nagar,
K.Pudur, Madurai-625 007.

... Petitioner/Writ Petition

Vs.

1.Rohit Karanth Sawhney,
S/o.Vinod Prakash Sawhney
Managing Director & Chief Executive Officer,
India Rating & Research Pvt. Ltd.,
Having Office at Wokhardt Towers,
4th Floor, West Wing, Bhandra Kurla Complex
Bhandra East,
Mumbai-400 051.

2.Rohan Shukla,
Assistant Manager,
Division of Policy & Inspection (Credit Rating
Agencies/Debenture Trustees)
Market Intermediaries Regulation &
Supervision Dept. (MIRSD)
Securities and Exchange Board of India,
SEBI Bhavan, Plot No.C4-A, 'G' Block,
Bandra-Kurla Complex, Bandra (East)
Mumbai-400 051.

... Respondent

Prayer: Contempt Petition filed under Section 15(1) of the Contempt of Courts Act, 1971 to initiate suo motu contempt proceedings against the contemnors 1 and 2 and punish them for willfully and deliberately misleading the Court in passing the orders in W.P.(MD) No.8037 of 2020, dated 12.10.2020.

Prayer in WP(MD). 8037/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records of the 3rd respondent in its e-mail communication dated 21.04.2020, which was sent by e-mail to the petitioner on 28.05.2020 (Rating Letter for Bank Loan Ratings of Mahasemam Trust), quash the same.



For Petitioner

: Mr.K.Subramanian

Senior Counsel

For Respondents

: Mr.Aravind P.Datar

Senior Counsel

for Mr.V.M.Sivakumar

Standing Counsel for SEBI

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O R D E R

Heard the learned Senior Counsel on either side.

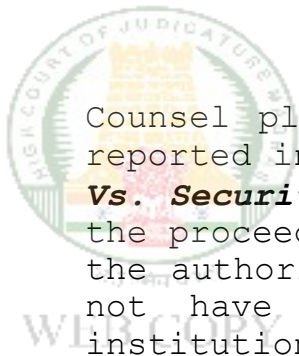
2.The petitioner herein filed W.P.(MD)No.8037 of 2020 challenging the downgrading of their rating by India Rating and Research Private Limited. By order dated 12.10.2020, the writ petition was dismissed as not maintainable. However, it was made clear that the writ petitioner was at liberty to avail the in-house remedy available to them or move Securities and Exchange Board of India (SEBI) directly by filing a complaint against the Rating Agency. It was further observed that whatever remedy that the petitioner may avail, the same shall be attended to with utmost expedition. Questioning this order, the petitioner herein moved the Hon'ble Supreme Court by filing S.L.P. No.15116 of 2020. Vide order dated 18.12.2020, the Hon'ble Apex Court dismissed the SLP and made it clear that the petitioner may seek his remedy as observed by the High Court in Paragraph No.18 of the Judgment.

3.Thereupon, the petitioner filed a complaint against the Rating Agency before SEBI. SEBI took the stand that the complaint is not maintainable before them and that, the petitioner will have to move the Reserve Bank of India, as according to the petitioner, the circulars issued by the Reserve Bank of India have been violated. Not satisfied with the stand taken by SEBI, the present contempt petition came to be filed before me.

4.Vide order dated 29.04.2021, I rejected the stand of SEBI that they do not have jurisdiction in the matter. I directed them to pass an order on merits. I made it clear that the issue of maintainability shall not be reopened. The contempt petition has been posted 'for compliance' today. The official who had disposed of the complaint vide order dated 04.06.2021, is present before this Court through video conference mode.

5.The learned Senior Counsel appearing for SEBI informed the Court that the order passed by this Court has been complied with.

6.The learned Senior Counsel appearing for the petitioner faulted the conduct of the authority who passed the order dated 04.06.2021. He submitted that even though this Court in its earlier order had specifically foreclosed the issue of maintainability, the official had chosen to once again seek directions from the Reserve Bank of India. The learned Senior



Counsel placed reliance on the decision of the Hon'ble Apex Court reported in **(2017) 5 SCC 517 (National Securities Depository Limited Vs. Securities and Exchange Board of India)** for the proposition that the proceedings are quasi judicial in character and that, therefore, the authority will have to independently decide the issue and could not have been dictated by any other authority or agency or institution. He pointedly contended that SEBI has not at all gone into the merits of the complaint.

7.I am not satisfied with the said submission. As rightly pointed out by the learned Senior Counsel appearing for SEBI, the order dated 04.06.2021 has been passed only on the merits of the matter. Even though the official need not have referred to the Reserve Bank of India, still a careful reading of the order indicates that they have not been dictated to by the Reserve Bank of India. The order has been passed after an independent application of mind. If the petitioner is aggrieved by the same, it is open to the petitioner to avail the remedies open to them under law. I consciously refrain from entering into the merits of the matter. By passing the order dated 04.06.2021, I am satisfied that the direction issued by this Court has been complied with in letter and spirit.

8. The contempt petition stands closed.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned..

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-18129[F] dated 30/04/2021)
+1 CC to M/s.T.SAKTHI KUMARAN, Advocate (SR-18191[F] dated 30/04/2021)
+1 CC to M/s.VE.M.SHIVAKUMAR, Advocate (SR-19288[F] dated 15/06/2021)

Cont. P(MD)No.442 of 2021
in

W.P(MD)No.8037 of 2020
14.06.2021

KB(28.06.2021) 3P 4C

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