



WEB COPY

WP No.14577 of 1



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-03-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.14577 of 1999

and

WPMP Nos.42 of 2013 and 2718 of 2023

R.Subramanian

... Petitioner

Vs.

- 1.The Reserve Bank of India,
Constituted under the RBI Act, 1934,
having its Regional Office at
Rajaji Salai,
Chennai-600 001.
- 2.The Secretary,
Ministry of Law and Company Affairs,
Government of India,
Sashtri Bhavan,
New Delhi.
- 3.The Regional Director,
Southern Region,
Department of Company Affairs,
Ministry of Finance,



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Government of India,
Shastri Bhavan,
Block No.I, 5th Floor,
26, Haddows Road,
Chennai-600 006.

4.The Secretary,
Ministry of Finance,
North Block,
New Delhi.

5.Alwarpet Benefit Fund Ltd.,
Represented by its Chairman and
Managing Director,
Mr.K.SP.B.Shanmugam,
36, C.P.Ramasamy Road,
Alwarpet,
Chennai-600 018.

6.K.SP.B.Shanmugam

7.Mr.V.Harshavardan

8.Mr.N.Mahesh

9.Mr.N.Namasivayam

10.Mr.C.Muthusamy

11.The Company Law Board,
South Regional Branch,
Shastri Bhavan, Chennai
Represented by its
Regional Manager.

12.Mrs.S.Unnamalai



13.S.Vishnuvaradhan

14.Mrs.S.Iswarya

15.Mrs.Nachiammal

16.Mrs.Saroja

17.M/s.Sreenidhi Foundation,
14, 4th Cross Street,
R.K.Nagar,
Chennai-28.

18.Mr.K.Arunachalam

19.Ramaniem Real Estates Ltd.,
Represented by its Managing
Director V.Jagannathan,
Sruthill 2nd Main Road,
Gandhi Nagar,
Chennai-20.

20.Standard Chartered Grindlays Bank,
Haddows Road,
Chennai-6.

21.B.B.Mastan Rao

22.Moolchand Finance Ltd.,
No.31/32, Commander-in-Chief Road,
Egmore,
Chennai-8.

23.Moolchand Properties Ltd.,
100/2A, Suvarna Darshan,
2nd Main Road, Gandhi Nagar,
Adyar, Chennai-20.



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24.KDH Properties Ltd.,
Represented by the Director
Mr.P.Thangarajan,
100/2A, Suvarna Darshan,
2nd Main Road,
Gandhi Nagar,
Adyar,
Chennai-20.

[R-24 impleaded vide order of Court
dated 03.07.2008 made in WPMP
No.469 of 2008 in WP 14577/1999]

25.Senior Manager,
Central Bank of India,
Kalapatti Branch,
No.7/25, Avinashi Road,
Coimbatore.

[R-25 impleaded vide order of Court
dated 03.07.2008 made in MP No.9
of 2008]

26.The Branch Manager,
Corporation Bank,
Madikeri Branch,
Karnataka State.

[R-26 impleaded vide order of Court
dated 09.03.2010 made in WPMP No.203
of 2010 in WP 14577/1999]

27.The Recovery Officer II,
Debts Recovery Tribunal,
Krishi Bhavan,
Hudson Circle,
Nrupthunga Road,
Bangalore-1.



28.Vasudevarao

29.J.P.Builders,
Represented by its Proprietor
Sri J.Paramanandam,
J.R.Towers, No.7/2,
Nungambakkam High Road,
Chennai-600 034.

30.K.Ramesh

31.K.Mahesh

32.The Chief Manager and Authorised Officer,
Allahabad Bank,
Adyar Branch,
No.19, 1st Street,
Padmanaba Nagar,
Adyar,
Chennai-600 020.

[Respondents 28 to 32 impleaded vide order
of Court dated 13.09.2011 made in
WPMP No.537 of 2011 in WP 14577/1999]

33.Ponni Plantations, Koppa
Represented by its Partners
(i) Mrs.K.Premalatha Hegde and
(ii) Mrs.Ramitha
Both are residing at Alankar,
Ajjarkad, Udupi-576 101.

34.Ramitha

[R-33 and R-34 impleaded vide order
of Court dated 06.01.2012 made in
WPMP 626 of 2011 in WP 14577/1999]

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to appoint a fit and proper person as custodian or Special Officer for taking immediate control and possession of all the assets and properties both movables and immovables and securities and pay the depositors their original due.

For Petitioner : Mr.M.A.Abdul Wahab

For Respondent-1 : Mr.Sathiya Narayanan

For Respondents-2to4 : Mr.J.Madana Gopal Rao,
Senior Panel Counsel.

For Respondent-5 : Mr.R.Bharath Kumar

For Respondents-6 to 12
and 14 to 17 : No Appearance

For Respondent-13 : Ms.M.Meena Rukmani

For Respondent-21 : Mr.Ranga Rajan

For Respondent-27 : Mr.S.Sethu Raman

For Respondent-33 : Mr.A.Uma Sankar

For Respondents-18 to 20,
22 to 26, 28 to 32 and
34 : Not Ready in Notice



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ORDER

The relief sought for in the present writ petition is to direct first respondent to appoint a fit and proper person as Custodian or Special Officer for taking immediate control and possession of all the assets and properties both movables and immovables and securities and pay the depositors their original dues.

2. The petitioner is one of the depositor in the fifth respondent-M/s.Alwarpet Benefit Fund Ltd. Since the fifth respondent-Alwarpet Benefit Fund Ltd., committed default in repayment of deposit amount, the depositors filed criminal complaint, which was registered and is pending as of now.

3. The investigation is now pending on the Economic Offences Wing of the Police Department.



4. The present writ petition is filed seeking a direction to appoint a fit and proper person as Custodian or Special Officer for taking immediate control and possession of all the assets and properties both movables and immovables and securities and pay the depositors their original dues.

5. The writ petition was filed in the year 1999 and it is pending for the past 23 years. Three retired Hon'ble Judges of this Court one after the another were administering the affairs of M/s.Alwarpet Benefit Fund Ltd. After the death of those retired Hon'ble Judges of this Court, at present, the Manager of the M/s.Alwarpet Benefit Fund Ltd., is looking after the administrative affairs. The last Administrator, who was a Retired Official from the TNSC Bank, also died on 04.11.2022. Thereafter, the Manager of M/s.Alwarpet Benefit Fund Ltd., has taken charge of the administration.

6. The learned counsel for the petitioner appointed by the Court made a submission that 25% of the dues to the depositors are yet to be settled. Properties are available, which all are to be dealt with. Now Alwarpet Benefit Fund Ltd., is falling within the ambit of the provisions of



the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act), 1997.

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7. The practice of appointing Administrator of Financial Establishments by the High Court may not be appropriate in view of the fact that an Expertise in financial business is required. Hon'ble Judges are not Experts in the field of Financial Establishments and the Government has to take over such Establishments and appoint the Competent Authorities to deal with the affairs of such Financial Establishments falling sick. More-so, the High Court cannot monitor the progress through Administrators appointed by the High Court for longer time and it is not preferable also.

8. In the present case, the Three Hon'ble Judges appointed were died one after another and still M/s.Alwarpet Benefit Fund Ltd., is unable to repay the amount due to the depositors. The experience have shown that High Court appointed Administrators are unable to run the Financial Establishments to the satisfaction of the creditors and the members.

9. The present writ petition is pending for the past about 23



years. The High Court cannot monitor the day-today affairs of such Financial Establishments by keeping the writ petition pending for several years. Thus, this Court is of the considered opinion that the Competent Authorities of the Government under the Statute must be allowed to administer such Sick Institutions in the manner contemplated. It would be easy for the Courts to fix the responsibility and accountability of such Governmental Authorities in the matter of dealing with the members and the aggrieved depositors of M/s.Alwarpet Benefit Fund Limited.

10. Considering the fact that no Administrator as of now is functioning to look after the affairs of the fifth respondent-Alwarpet Benefit Fund Ltd., this Court is inclined to direct the Competent Authority under Section 4 of the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act), 1997, i.e., the jurisdictional District Revenue Officer, Chennai, who in turn shall initiate all necessary action under the provisions of the Statutes and the Rules to settle the dues to the depositors and other dues, if any in the manner known to law.

11. The Jurisdictional District Revenue Officer, Chennai



District is directed to take charge of the fifth respondent-Alwarpet Benefit Fund Limited with immediate effect and take over the assets and liabilities, both movables and immovables, records etc., and thereafter initiate all appropriate actions by following the procedures as contemplated under the Tamil Nadu Protection of Interests of Depositors (in Financial Establishments) Act), 1997, by referring the disputes before the Special Courts constituted.

12. The fifth respondent-Alwarpet Benefit Fund Limited now being managed by the Manager, is directed to hand over the entire charge including records, documents, salary, property details etc., to the jurisdictional District Revenue Officer of Chennai District, within a period of four weeks from the date of receipt of a copy of this order. If any clarification is required or difficulty arises to the District Revenue Officer, Chennai District, he is at liberty to approach this Court for any further or appropriate orders.

13. With the abovesaid directions, the writ petition stands



disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

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The Registry is directed to communicate the copy of this order to the District Collector, Chennai District and to the District Revenue Officer, Chennai District.

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Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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To

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Chennai-600 001.
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S.M.SUBRAMANIAM, J.

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9. The District Collector,
Chennai District.

10. The District Revenue Officer,
Chennai District.

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