IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.02.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

WP.No.3114 of 2010 and
MP.No.1 of 2010

1.M.A.George
2.K.Unnikrishnan
3.G.Shanavas
4.C.B.Bibu
5.K.K.Shajan
6.P.A.Moosa
7.M.Radhakrishnan
8.Radhakrishna Kurup
9.K.S.Harikumar
10.K.P.Somasundaram Nair
11.E.V.Bhayishan
12.E.V.Ramila
13.E.V.Vinayan ... Petitioners

Vs

1.The Chief Secretary to Government
Government of Tamilnadu
Forrt St. George
Chennai-600 009.

2.The Secretary to Government
Home Department
Forrt St. George
Chennai-600 009.

3.The Registrar of Companies
Shastri Bhavan
26, Haddows Road
Chennai-600 006.

4.The District Collector
Chennai District
Chennai-600 001.

5.M/s.Wealth Line Promoters Pvt. Ltd.,
(Way 2 Life)
Represented by its Director
No.14, I Floor, 4th Avenue
Ashok Nagar, Chennai-600 083.

6.The Commissioner of Police,
Economic Offences Wing, Chennai.

7.Balakrishnan Veerarahavalu
8.Sakthivel Chitra Selvakumar
9.Arunagiri Balasundaram
10.Arunkumar Venugopal ... Respondents
(R6 to R10 impleaded suo-motu as per court order
dated 10.8.2010 by this Court in WP.3114 of 2010)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 4 to take suitable action against the 5th respondent company in accordance with law so as to protect the investments made by the petitioners.

For Petitioners : Ms.Abinu Monisha
for Mr.P.R.Padmanabha Nair
For Respondents : Mr.Alagu Goutham (for R1, R2, R4 & R6)
Government Advocate

Mr.K.Ramanamoorthy (for R3)
Central Government Standing Counsel
Not ready notice (for R5, R7 to R10)

ORDER

The petitioners claim to have invested in the 5th respondent company and have a common grievance in this regard. They seek a mandamus directing R1 to R4 being the Chief Secretary, Secretary Home Department, Registrar of Companies and District Collector Chennai, to take suitable action against R5 company to protect the investments made by them as well as various others. The investments have itself been made ostensibly in various money schemes that have been advertised by R5 company promising attractive returns.

2.Heard Ms.Abinu Monisha, learned counsel for Mr.P.R.Padmanabhan Nair, learned counsel for the petitioners, Mr.Alagu Goutham, learned Government Advocate for R1, R2, R4 and R6 and Mr.K.Ramanamoorthy, learned Central Government Standing Counsel for R3.

3.Vide order dated 10.08.2010 the Commissioner of Police/R6 and individuals/R7 to R10 have been suo motu impleaded by this Court.

4.A status report dated 20.02.2023 has been filed by R6 and reads thus:

'It is submit that the above named accused Al. Chitra Selvakumar Formed Finance Company in the name of Ms.Health line promoters Pvt. Ltd and changed the name of way 2 life at Egaduthangal Chennai with Co-workers A2 Vijayapullet, A3.Gowda, and A4 Karunanithi they were attractive advertisement of their companies investors. Who invest a deposit amount in their company they will get 2 1/2 share given back within 100 days. As within 100 days by investors get three time multiples as invest. The complaint named Tr.Thirumurugan age 27, S/o. Kathirvel: No.39, G.North Parade Road, Chakkayapany Colony at S.T Thomas Mount, Chennai-16.

2) It is submitted that on the complaint of Tr. K.E.Thirumurugan, M/A 27, S/o. E.Kathirvel, No.39-G, North Paraod Road, Chakkarapani Colony, St. Thomas Mount, Chennai-116 a case was registered by Chennai Suburaraban Police, Central Crime Branch, St. Thomas Mount, Chennai-16 in Crime No.66 of 2010 U/s 420 IPC on 28.04.2010 and took up for investigation.

3) It is submitted that the investigation revealed that investor amount Rs.1500/- on 25.11.2009 through internet and he was issued A/c No.WL 264873 and second Account also open A/c No.WL 363823. Ist Deposit amount Rs.5,39000/- and second Deposit amount Rs.5,04000/- The dividend share of the above said deposit amounts Ist yield Rs.26,000/- per day and raised Rs.52,000/- through internet Accounts by the above said company and given withdraw option on 1.1.2010, and the same procedure as followed by the complainant where he checked his account through HDFC Bank. But the above dividend shares not in his account. As the complainant verified the Finance company but it was closed. The above persons were escaped. When I enquired of the persons all are false.

4) It is submitted that strong efforts were taken to secured the accused but all are ended in vain accused phone *numbers 9345711972, 9500000661, 9345028646 call details are verified. But no clues are identified.*

5) It is submitted that the account statements of accused was obtained from the concerned banks, its shows that, last transactions was made in 2010, HSBC account was closed in 2010 and Axis Bank account balance shows minus.

6) It is submitted that the special team made enquiries about the accused, no clues was obtained, efforts were taken to secured the accused, proved to be to futile. The complainnat has deposited as cash and there is no scope for recovering the cash after a lapse of more than 10 years. Already more than 10 years have lapsed. There is no scope to secure the accused in the near future has there is no clue about the whereabouts of the accused. Hence, this case was treated as undetected and after obtaining proper order through proper channel final report was filed before the Hon'ble Judicial Magistrate-I, alandur Court, Chennai. RC's Notice served to the complainant and acknowledgement of copy submitted before the court. The Hon'ble Court issued notice to the complainant, same was received by the complainant but the complainant didn't appear before the Hon'ble court. Hence, second notice issued to the complainant it was received by his staff, but he is not appear. The Hon'ble Magistrate ordered that "Notice served to Defacto complianant. Proof of service filed. Defacto complainant called absent, No representation. Final report, records perused, Prima facie satisfied. Case closed as undetected with liberty to reopen the case as and when required issue slip proceedings" on 06.01.2023.

I, therefore, respectfully prayed that this Hon'ble Court may be pleased to accept the status report and thus render justice.'

5.Though, there is no reference to the petitioners in the aforesaid status report, R5 company is the target of attention, both in the status report which deals with Crime No.66 of 2010 as well as the present writ petition.

6.The status report brings to light the criminal action that was initiated by others who have faced similar grievances as against R5 company. The criminal complaint has ultimately come to be closed, since the defacto complainant was called absent on several occasions.

7.In light of the fact that the grievances of the petitioners would require determination of various facts, it would be appropriate to permit them to approach the police authorities. Thus, liberty is granted to the petitioners to approach R6 by way of an appropriate complaint which, if and when filed, in any event within a period of six (6) weeks from today, will be enquired into by R6 after taking inputs and assistance from other respondents in this writ petition and after making due enquiry, and action taken in accordance with law.

8.This writ petition is dismissed. No costs. Connected miscellaneous petition is closed.

20.02.2023

vs
Index : Yes/No
Speaking Order
Neutral citation:Yes

To

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Home Department
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4.The District Collector
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5.The Commissioner of Police,
Economic Offences Wing, Chennai.

DR.ANITA SUMANTH, J.

vs

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