



W.P(MD)No.6726 of 2015

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.6726 of 2015 and
WMP(MD) No.2033 of 2016

S. Saravanan

... Petitioner

Vs

**1.The Regional Head,
Reserve Bank of India,
Fort Glacis,
Chennai - 600 001.**

**2.The Regional Business,
Head, (Business Banking)
ING-Vysya Bank Ltd,
Regional Office, Chennai.**

**3.The Branch Manager,
ING-Vysya
B36. Sastry Road,
Rathina Enclave,
Thillai Nagar,
Trichy - 620 018.**

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of declaration or any



W.P(MD)No.6726 of 2015

other appropriate writ, order of direction in the nature of writ declare the clause No. 22 of letter of arrangement letter entered in between the petitioner and third respondent is null and void and liable to be inoperative, invalid incompetent against the public policy and ultra vires to the constitution and directing the third respondent to return the amount of Rs.69,66,119.18/- received as penalty charge for as take over charge by the petitioner within a reasonable time

For Petitioner	: Mr.C.B.Muralikrishnan
For R1	: Mr.K.R.Laxman
	Standing Counsel
For R2 & R3	: No appearance

ORDER

The case of the petitioner is that the petitioner has maintained six accounts with the third respondent Bank and obtained a loan of Rs.300 Lakhs. According to the petitioner, the respondent Bank has collected a sum of Rs.69,66,119.18- from the petitioner towards takeover charges and penalty illegally. Being not satisfied with the service rendered by the third respondent Bank, the petitioner has approached this Court to declare the letter of arrangement entered between the petitioner and third respondent is



W.P(MD)No.6726 of 2015

null and void and further to direct the third respondent Bank to return the amount collected from the petitioner.

2.The relief sought for in this writ petition is against private financial companies. Even assuming that they are private Banks established with a license issued by the Reserve Bank of India and governed by it's guidelines, it does not mean that these Banks would fall under the category which discharge any public function or public duty. The regulations on any reserve bank are more or less the regulation on any private company. In the case of ***Federal Bank Ltd. v. Sagar Thomas [(2003) 10 SCC 733]***, the Hon'ble Apex Court has considered this issue as to whether a private Bank falls within the definition of State under the meaning of Article 12 of the Constitution of India and held as follows:-

“18.From the decisions referred to above, the position that emerges is that a writ petition under [Article 226](#) of the Constitution of India may be maintainable against (i) the State (Govt); (ii) Authority; (iii) a statutory body; (iv) an instrumentality or agency of the State; (v) a



W.P(MD)No.6726 of 2015

WEB COPY

company which is financed and owned by the State; (vi) a private body run substantially on State funding; (vii) a private body discharging public duty or positive obligation of public nature (viii) a person or a body under liability to discharge any function under any Statute, to compel it to perform such a statutory function.”

Holding so, the Hon'ble Apex Court finally decided as follows:-

“33.... a private company carrying on banking business as a scheduled bank, cannot be termed as an institution or company carrying on any statutory or public duty. A private body or a person may be amenable to writ jurisdiction only where it may become necessary to compel such body or association to enforce any statutory obligations or such obligations of public nature casting positive obligation upon it. We don't find such conditions are fulfilled in respect of a private company carrying on a commercial activity of banking. Merely regulatory provisions to ensure such activity carried on by private bodies work within a discipline, do not confer any such status upon the company nor puts any such obligation upon it which may be enforced through issue of a writ under [Article 226](#) of the Constitution. ...”



W.P(MD)No.6726 of 2015

WEB COPY

3.In view of the above settled position of law, this Court is not inclined to entertain this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

16.10.2023

NCC: Yes/No

Index: Yes/No

Internet: Yes

vrn

To

The Regional Head,
Reserve Bank of India,
Fort Glacis,
Chennai - 600 001.



WEB COPY



W.P(MD)No.6726 of 2015

B.PUGALENDHI, J.

vrn

Order made in
W.P(MD)No.6726 of 2015 and
WMP(MD) No.2033 of 2016

16.10.2023