



W.P.Nos.6465, 8004, 15075 & 15110 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.6465, 8004, 15075 & 15110 of 2021

and

W.M.P.Nos.7049, 8557, 8558, 15972 & 16004 of 2021

W.P.No.6465 of 2021

- 1.Anbazhagan A
- 2.JR Ezhil
- 3.M Sambath
- 4.B.Vasupal
- 5.A. Sundararajan
- 6.Nandakumar RKSS
- 7.Udhayakumar K R
- 8.AS Varisai Mohamed
- 9.VR. NA. Arunn
- 10.Thangaraj A
- 11.T A H Ramaswami
- 12.K Prakash
- 13.AP. Ravimurugan
- 14.V Mohanakrishnan
- 15.K.Kumaraguruparan

... Petitioners

Vs.

- 1.Union of India, represented
by the Secretary to Government,
Ministry of Finance,
Department of Financial Services,



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New Delhi.

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- 2.The Secretary to Government,
Ministry of Corporate Affairs,
Department of Corporate Affairs,
New Delhi.
 - 3.The Reserve Bank of India,
Represented by its Chief General Manager & Secretary,
16th Floor, Central Office Building,
Shahid Bagath Singh Marg,
Mumbai – 400 001.
 - 4.Indian Banks Association,
Represented by its Chairman,
World Trade Center Complex-Cuff Parade,
6th Floor Center-I Building,
Mumbai – 400 005.
 - 5.Punjab National Bank,
Represented by its Managing Director-cum-Chief Executive Officer,
Plot No.4, Sector 10, Dwarka,
New Delhi – 110 075.
 - 6.The Zonal Manager,
Punjab National Bank,
Zonal Office at No.46-49, PNB Towers,
Royapettah High Road,
Royapettah, Chennai – 600 014.
- ... Respondents

W.P.No.8004 of 2021

- 1.S.Chellappan
- 2.Ravindran N
- 3.S. Francis Xavier
- 4.P.Sunder



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- 5.A.Ramkumar
- 6.Arun Kanagasabapathy
- 7.M.C.Muthuraman
- 8.R.Murugesan
- 9.P.Saravanan
- 10.K.Muthuraman
- 11.C.Murugesan
- 12.R.Kannan
- 13.K.Rasheeth
- 14.D.A.Saravanan
- 15.V.S.Hemalatha
- 16.S.Ranganathan
- 17.Prince P
- 18.A.Shajahan Arabjan
- 19.C.Ravi
- 20.N.T.Balasundaram
- 21.S.K.Velmurugan
- 22.N.Tamilmaran
- 23.S.Rajkumar
- 24.Ramalingam S
- 25.N.Srikumar
- 26.P.T.Suresh Kumar
- 27.S.S.SAravanabhavan
- 28.R.Nagarajan
- 29.S.Asokan
- 30.M.Soundar Rajan
- 31.A.Rajendran
- 32.V.J.Nallakumaran
- 33.K.Devaraj
- 34.N.Sivan
- 35.M.R.Venkatesh
- 36.N.Kanagarajan
- 37.K.Sundarapandian
- 38.A.P.Radhakrishnan
- 39.M.Ulaganathan
- 40.V.Murugadas
- 41.R.Ganesh Rao



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42.K.S.Srivathsan

... Petitioners

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Vs.

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Department of Financial Services,
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- 2.The Secretary to Government,
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- 6.The Zonal Manager,
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Royapettah High Road,
Royapettah, Chennai – 600 014.

... Respondents

W.P.No.15075 of 2021



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WEB CONTENT

TN Valuers Association,
Represented by its Secretary,
Having registered office at
7/1Q, 4th Cross, TAMS Colony,
Old Railway Line Road,
Dharmapuri – 636 701.

... Petitioners

Vs.

- 1.Union of India, represented
by the Secretary to Government,
Ministry of Finance,
Department of Financial Services,
New Delhi.
- 2.The Secretary to Government,
Ministry of Corporate Affairs,
Department of Corporate Affairs,
New Delhi.
- 3.The Reserve Bank of India,
Represented by its Chief General Manager & Secretary,
16th Floor, Central Office Building,
Shahid Bagath Singh Marg,
Mumbai – 400 001.
- 4.The Insolvency and Bankruptcy Board of India,
represented by its Chairperson,
7th Floor, Mayur Bhawan, Shankar Market,
Connaught Circus, New Delhi – 110 001.
- 5.Indian Banks Association,
Represented by its Chairman,
World Trade Center Complex-Cuff Parade,
6th Floor Center-I Building,
Mumbai – 400 005.



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6.State Bank of India,

Represented by its Chairman & Managing Director,
State Bank Bhavan, Madam Cama Road,
Mumbai – 400 021.

7.Canara Bank,

Represented by its Chairman & Managing Director,
112, Jayachamarajendra Road, Post Box No.6648,
Bangalore – 560 002.

8.UCO Bank,

Represented by its Chairman & Managing Director,
Head Office, 10, Biplabi Trailokya Maharaj, Sarani,
Kolkata – 700 001.

9.Central Bank of India,

Corporate Office,
Chandar Mukhi, Nariman Point,
Mumbai – 400 021,
Maharashtra.

10.Union Bank of India,

Corporate Office,
No.239, Vidhan Bhavan Marg,
Nariman Point, Mumbai – 400 021,
Maharashtra.

... Respondents

W.P.No.15110 of 2021

TN Valuers Association,

Represented by its Secretary,
Having registered office at
7/1Q, 4th Cross, TAMS Colony,
Old Railway Line Road,
Dharmapuri – 636 701.

... Petitioner



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Vs.

WEB COPY

1. Union of India, represented
by the Secretary to Government,
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Represented by its Chairman,
World Trade Center Complex-Cuff Parade,
6th Floor Center-I Building,
Mumbai – 400 005.
 6. Punjab National Bank,
Represented by its Managing Director-cum-Chief Executive Officer,
Plot No.4, Sector 10, Dwarka,
New Delhi – 110 075.
- ... Respondents

Prayer in W.P.No.6465 of 2021 : Writ Petition filed under Article 226



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of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the fifth respondent relating to the impugned orders dated 07.01.2021 bearing ref: NIL and dated 23.02.2021 bearing ref: NIL and quash the same in as much as they insist upon submission of a letter of Indemnity by the petitioners to the fifth respondent and consequently forbear the respondent in any manner insisting upon the petitioners to execute indemnity bonds/ letters of indemnity while empanalment or in discharge of their professional services.

Prayer in W.P.No.8004 of 2021 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the fifth respondent relating to the impugned orders dated 07.01.2021 bearing ref: NIL and dated 23.02.2021 bearing ref: NIL and quash the same in as much as they insist upon submission of a letter of Indemnity by the petitioners to the fifth respondent and consequently forbear the respondent in any manner acting upon the indemnity bonds/ letters of indemnity obtained from the petitioners while empanalment or in discharge of their professional services.

Prayer in W.P.No.15075 of 2021 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring the action of the respondents in insisting/imposing indemnity bonds/letters of indemnity by the Valuers while empanelment and renewal in discharge of their professional services as arbitrary and illegal and consequently forbear them from in any manner insisting or acting



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upon letters of indemnity/indemnity bonds from the Valueres/members of the petitioner association.

Prayer in W.P.No.15110 of 2021 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring the action of the respondents in insisting/imposing indemnity bonds/letters of indemnity by the Valuers while empanelment and renewal in discharge of their professional services as arbitrary and illegal and consequently forbear them from in any manner insisting or acting upon letters of indemnity/indemnity bonds from the Valueres/members of the petitioner association.

W.P.No.6465 of 2021

For Petitioner : Mr.T.Sai Krishnan
For Respondents : Mrs.P.J.Anitha
CGSC [R1 & R2]
Not Ready in Notice [R3 & R4]
Mr.R.Krishnakumar [R5 & R6]

W.P.No.8004 of 2021

For Petitioner : Mr.T.Sai Krishnan
For Respondents : Dr.D.Simon
CGSC [R1 & R2]
Not Ready in Notice [R3 & R4]
Mr.R.Krishnakumar [R5 & R6]

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For Petitioner : Mr.T.Sai Krishnan

COMMON ORDER



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Since the issue involved in these writ petitions are one and the same, with the consent of the learned counsel appearing for the parties, these writ petitions were heard together and disposed of by way of this common order.

2. These Writ Petitions have been filed by the petitioners, challenging the impugned orders, dated 07.01.2021 and 23.02.2021 issued by the Punjab National Bank/5th respondent herein, in and by which, the petitioners have been directed to execute the 'Letter of Indemnity', as well as seeking to declare the action of the respondents in insisting the valuers (petitioners) to execute Indemnity bonds while empanelment and renewal in discharge of their professional services as arbitrary and illegal.

3. The petitioners herein are the registered valuers. It appears that pursuant to the Notification issued by the 5th respondent bank, the petitioners had applied for empanelment of Valuers for a period of 3 years from 2020-21 and got selected. According to the petitioners, while they were empanelled as approved valuers, by letter dated 07.01.2021



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and 23.2.2021, the 5th and 6th respondents bank instructed the petitioners to execute certain documents, among which, one is 'Letter of Indemnity' and it was made clear that the empanelment of the petitioners as Valuers is subject to the execution of these these documents only.

4. Learned counsel for the petitioners would contend that the impugned letters of the 5th and 6th respondents, requiring the Valuers seeking empanelment to execute 'letter of Indemnity' is an omnibus open ended idemnity whereby the valuers and their legal heirs agreed to indemnify the ban against all loss, damage, etc., arising out of any act, lapses, defaults, etc., and the amount as claimed by the bank as loss will be conclusive and it is one-sided, unconscionable, dictatorial and offends Article 14 of the Constitution of India. He would also contend that in fact, as per the original advertisement for empanelment of valuers, the letter of indemnity was not a requirement and it is not fair on the part of the 5th and 6th respondents to insist upon the execution of the indemnity bonds after their selection. He pointed out that the Courts can interfere in contractual matters where State or its instrumentalities act unfairly or arbitrarily. Therefore, the learned counsel seeks to set aside the impugned



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letters. He would submit that the imposition of indemnity clause unjustly enriches the respondents bank and in all likelihood will lead to exploitation of innocent valuers. Therefore, the learned counsel would urge this Court to declare the action of the respondents bank in insisting/imposing idemnity bonds/letters of indemnity by the valuers, is illegal and arbitrary.

5. On the other hand, while reiterating the averments contained in the counter affidavits, the learned Central Government Standing counsel for respondents 1 and 2 as well as the learned counsel for the respondents 5 and 6 would submit that the said idemnity letters are part of contractual stipulations and constitute as an invitation to offer to all the valuers seeking empanelment with the respondents bank and the petitioners/valuers seeking empanelment, can reject the invitation if they do not agree with the terms and conditions (including the condition of execution of indemnity bonds) and they are not entitled to challenge the same. They would further submit that the present Writ Petitions are in the realm of contract law and not under the public law and as such, the present Writ Petitions are not maintainable.



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6. They would further contend that the respondents banks are involved in the activity of money lending in lieu of security deposited by the borrowers. The valuation of security based on which, money is lent is important and the same is done by the valuer empanelled with the respondents banks. It is further submitted that large number of banks including the respondents were not able to recover the funds lent by them due to improper and highly inflated valuation done in collusion with the borrowers. Therefore, in order to safeguard the public money, the impugned letters of indemnity was incorporated and also with an objective to keep a check on improper valuations and ensure that the valuation conducted is honest, faithful and keep the interest of the banks in mind. Therefore, with these submissions, they sought for dismissal of the Writ Petitions.

7. Heard the learned counsel for the respective petitioners, the learned respective Central Government Standing Counsel appearing for the respective respondents 1 and 2 and the learned counsel appearing for the respective respondents 5 and 6 and perused the materials available on



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record.
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8. At the out set, this Court is of the considered view that the impugned letters of indemnity required to be executed by the petitioners/valuers seeking empanelment as valuers in the respondents banks, cannot be held as unconscionable, irrational, unfair and violative of Article 14 of the Constitution of India. In fact, the amount disbursed by the banks as part of their lending activity entirely depends upon the valuation of the security that is deposited by the borrowers with the banks. This valuation is *sine qua non* for the banks to determine the amount which shall be disbursed and in case the borrower fails to return the loan amount, the bank is left with no other option but to enforce the security deposited and in case, if the valuation is improper and less than the amount lent by the banks, then the banks will sustain huge loss, which ultimately cause irreparable loss to the public money since the banks are dealing with the public money. Therefore, the respondents banks are justified to ensure that the property deposited by the prospective borrowers is properly valued. The banks may come up with a condition that the valuer shall act reasonably, fairly and take responsible



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care while valuing a property. Therefore, this Court is of the view that the respondents banks are justified in imposing a condition that if any loss occurs to the bank on account of improper/illegal valuation, the valuer will be called upon to indemnify the bank. The role of the valuers is different from other professionals, such as Doctors, Lawyers, etc. who only give opinion or renders service to the given cases and liable before the Courts/consumer forums if they act negligently, whereas, the valuer has a duty to act fairly and value the property based on the prevailing market standards, failing which, he shall be ready to face action. Further, there is no open ended liability in the present case since the indemnity clause can be invoked by the petitioners only if the bank is able to prove that the valuation was improper and loss was sustained by them owing to act, lapse or error committed by the valuer. If the valuers feel that their valuation report is justified and was based on existing market standards, they can raise the same issue before a Court of law against the invocation of the indemnity clause.

9. The empaneled valuers will only be liable to indemnify if he/she commits any act, lapse, default, negligence error or mistake while



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discharging their duties. Therefore, the said stipulation of indemnity is valid.

10. For the foregoing discussion, this Court does not find any illegality in the impugned orders in order to interfere with the same. Further, the petitioners have not made out the case for declaration as sought for. Accordingly, the Writ Petitions fail and the same are dismissed. No costs. Consequently, the connected writ miscellaneous petitions are also dismissed.

13.08.2024

Index : Yes / No
Speaking order / Non-speaking order
sp

To

1.The Secretary to Government,
Union of India,
Ministry of Finance,
Department of Financial Services,
New Delhi.

2.The Secretary to Government,
Ministry of Corporate Affairs,
Department of Corporate Affairs,
New Delhi.



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5. The Chairperson,
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6. The Chairman & Managing Director,
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State Bank Bhavan, Madam Cama Road,
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7. The Central Bank of India,
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M.DHANDAPANI, J.

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