IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2024

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

WP No. 21148 of 2024
and WMP Nos.23085 and 23086 of 2024

Balavignesh R
S/o. Ramasamy,
No.2, Chandragandhi Layout,
Jyayasimmapuram, Pappnaickenpalayam,
Coimbatore -641 037. .. Petitioner

Vs

M/s.Bank of Baroda, ROSARB,
Rep. By its Authorised Officer/Chief Manager,
Mr. K.Jeyachandran,
82, Bank Road 2nd Floor, Coimbatore -641 018. .. Respondent

For Petitioner : Mr.K.A. Ramakrishnan

For Respondent : M/s.Revathi Manivannan

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records of the Impugned Order dated 08.05.2024 passed by the learned Chief Judicial Magistrate, Tiruppur, in Crl.M.P.No.3720 of 2024 and quash the same.

* * * * *

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

The matter was listed today at 2.15 p.m. because of the application made by respondent that a conditional stay has been given on 26.07.2024 whereby petitioner was directed to deposit Rs.36 lakhs in a no-lien account before 31.07.2024, with an undertaking that this amount is meant for appropriation by bank towards loan account. Counsel for bank stated that this condition has not been complied with and therefore, the Court may take up the petition and dismiss the same.

2. At 2.15 p.m., when the matter was called out, the advocate for petitioner stated that a compliance memo has been filed on 08.08.2024, but copy of the same has not been served on the bank. Counsel states that he did not have to inform the bank because the amount has been deposited in the bank and the bank should be knowing that this was in compliance of the conditional stay granted. We disagree with the counsel for petitioner because as an officer of the Court he was duty bound to inform the opposite

side when the stay order was communicated to the bank. In view of this compliance memo, Ms.Revathi Manivannan states that the petition be taken up for final hearing soon. Therefore, we are inclined to adjourn the case for final hearing on 10.01.2025.

3. Since this application was made and we had to spend the precious judicial time in view of petitioner not informing respondent about the so-called compliance, for today's hearing, petitioner shall pay a sum of Rs.25,000/- (Rupees twenty five thousand only) as costs and this amount shall be paid on or before 03.01.2025. The amount shall be paid by way of a cheque drawn in favour of the advocate on record for respondent bank. Upon the amount being paid, the compliance affidavit shall be filed by 03.01.2025, copy of which shall be served on the advocate for the bank. If such affidavit is not filed, the petition shall stand dismissed without further reference to the Court. Pursuant to the order dated 26.07.2024, the bank may appropriate the amount of Rs.36 lakhs towards the loan account.

4. After we dictated the above, Ms.Revathi once again states that petitioner has not complied with the order dated 26.07.2024 because the

order itself records that the two demand drafts for Rs.16 lakhs and Rs.20 lakhs were in the name of M/s.A.R. Products and M/s.A.R. Polymers. Hence, depositing the said drafts in the respective bank account of the parties would not amount to placing the amount of Rs.36 lakhs in a no-lien account.

5. Mr.Ramakrishnan states that it was the responsibility of the bank to have the amount credited by deposit of those two drafts transferred into a no-lien account. We disagree with the counsel because the order is very clear that “on condition that the petitioner deposits a sum of Rs.36 lakhs in a "No Lien Account" before 31.07.2024 with an undertaking that this amount is meant for appropriation by bank towards loan account”.

6. Therefore, it is clear that once those demand drafts were deposited in the respective account of M/s.A.R.Products and M/s.A.R.Polymers, petitioner should have transferred Rs.36 lakhs into a no-lien account, which petitioner should have approached the bank to create, and keep the money at the disposal of the bank. Since an incorrect compliance memo has been filed, we dismiss the petition. The bank is at liberty to freeze those two

accounts and take away Rs.36 lakhs.

7. Notwithstanding the dismissal of the petition, the costs, as mentioned above, shall be paid; if not paid, the amount may be added to the outstanding of the borrowers/guarantors. Interest may be charged as per the interest rate of the loan account.

Writ petition is dismissed with costs of Rs.25,000/-, as indicated above. Consequently, interim applications are closed.

(K.R.SHRIRAM., CJ.) **(SENTHILKUMARRAMAMOORTHY, J.)**
17.12.2024

Index : Yes/No
NC : Yes/No

sra

To:

The Chief Judicial Magistrate,
Tiruppur.

THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY,J.

(sra)

W.P.No.21148 of 2024

17.12.2024