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W.P.No.30358 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.30358 of 2022

C.Augustin Jebaraj

... Petitioner

Vs.

1.The Director,
Ministry of Corporate Affairs,
Room No.508A, 5th floor, 'A' Wing,
Shastri Bhavan,
Rajendra Prasad Road,
New Delhi 110 001

2.HDB Financial Services Ltd.,
No.68/2, Loyal Towers, 4th Floor,
Greams Road,
Chennai 600 006

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India
praying to issue a Writ of Mandamus directing the first respondent to
conduct enquiry based on Sec 210(2), 211(2)(ii) of the Companies Act,
2013 for petitioner's representation dated 08.07.2019 and 29.08.2022.

For Petitioner : Mr.A.Muruganandam



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For Respondents

For R1 : Mr.J.Madanagopal Rao,
Senior Panel Counsel

For R2 : Mr.M.Ajmal Azzath

ORDER

This writ petition has been filed for direction to the first respondent to conduct enquiry under Sections 210(2), 211(2)(ii) of the Companies Act, 2013 on the complaint lodged by the petitioner.

2. The petitioner had entered into arbitration agreement with the second respondent on 29.09.2011. As per the said agreement, arbitration proceedings to be initiated at Chennai. However, the Company initiated arbitration proceedings against the petitioner at Mumbai by fraudulently altering the jurisdiction clause 18 of schedule of arbitration agreement and obtained award by dated 28.07.2017. In pursuant to the said award, company also had initiated execution proceedings against the petitioner in EP.No.2205 of 2017 on the file of the IX Assistant City Civil Court, Chennai. Though the petitioner filed application to stay of the suit proceedings, the Company orally informed



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before the Court that the petitioner had paid sufficient amount for their satisfaction and the company is not willing to proceed further. To that effect, a memo was also filed stating that judgment debtor has fully paid the amount and as such, the execution proceedings was terminated by an order dated 15.04.2021. However, the original documents were not returned to the petitioner and as such, the petitioner filed writ petition before this Court in WP.No.16289 of 2021 and this Court by order dated 02.02.2022 directed the second respondent to return the original document within a period of four weeks. It was not complied with and as such, the petitioner was constrained to file contempt petition. Therefore, the company is playing an 'unfair trade practice' and also trying to cheat the petitioner. Hence, the petitioner made representation as against the second respondent to conduct enquiry. On receipt of the same, the first respondent subsequently forwarded the complaint to the Manager, Department of Non Banking Supervision since the second respondent company is the non banking financial company by its communication dated 17.02.2020 as the first respondent has no authority to deal with the complaint lodged by the petitioner.



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3. In view of the above, the Manager, Department of Non Banking Supervision, Reserve Bank of India, Ahmedabad is directed to deal with the complaint lodged by the petitioner and conduct enquiry after issuance of notice to the petitioner as well as the second respondent and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of copy of this order.

4. With the above direction, this writ petition is disposed of.
There shall be no order as to costs.

01.04.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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To

- 1.The Director,
Ministry of Corporate Affairs,
Room No.508A, 5th floor, 'A' Wing,
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Rajendra Prasad Road,
New Delhi 110 001
- 2.HDB Financial Services Ltd.,
No.68/2, Loyal Towers, 4th Floor,
Greaves Road,
Chennai 600 006
- 3.The Manager,
Department of Non Banking Supervision,
First Floor, Main Office Building,
Reserve Bank of India,
Ahmadabad 380 014



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G.K.ILANTHIRAIYAN, J.

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