



W.P(MD)No.305 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.305 of 2019

M/s.Dynepro Private Limited,
No.4, Dindigul Road, Tiruchirapalli – 620 001,
Represented by its Authorized Signatory,
C.Mathivanan

... Petitioner

Vs

1.M/s.Andhra Bank,
Represented by its Chief Manager,
Trichy Main Road, 100-A, Ground Floor,
Naveen Plaza, Woraiyur,
Tiruchirapalli – 620 003.

2.Office of the Banking Ombudsman,
Represented by Assistant General Manager,
Reserve Bank of India Building (IInd Floor),
Fort Glacis, Post Box No.40,
No.16, Rajaji Salai,
Chennai – 600 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent relating to the order dated 06.07.2018 in Ref.BO(Che)/188-C-8936-2017-18 and quash the same and further direct the first respondent bank to release all the original title deeds deposited by the petitioner at the time of availing OCC limit on 28.08.2015 in terms of Loan Closure letter dated 06.04.2018 and No Objection Letter dated 15.05.2018 issued by the first respondent bank immediately.



WEB COPY



W.P(MD)No.305 of 2019

For Petitioner : Mr.D.Srinivasaragavan

For Respondents : No appearance

ORDER

This Writ Petition has been filed by the petitioner challenging the order passed by the second respondent dated 06.07.2018 thereby rejecting the complaint lodged by the petitioner alleging that the first respondent failed to release all the original title deeds which were deposited by the petitioner at the time of availing loan.

2.After the demise of the learned counsel, who entered appearance on behalf of the first respondent, notice was served on the first respondent and the names of the respondents 1 and 2 are also printed in the cause list. Even then, no one appeared on behalf of the respondents 1 and 2 before this Court either in person or through new pleader.

3.Heard the learned counsel appearing for the petitioner and perused the materials placed before this Court.



W.P(MD)No.305 of 2019

4.The petitioner was primarily constituted as a partnership firm in the name and style of M/s.Pipelines India and subsequently constituted as a Private Limited Company in the name and style of M/s.Pipeline and Process Equipments Private Limited. While being so, in order to get financial assistance by way of Overdraft Cash Credit facility, the petitioner approached the first respondent to the tune of Rs.3 crores. It was sanctioned in favour of M/s.Pipelines & Process Equipments Private Limited on deposit of title deeds. Accordingly, the composite loan agreement was entered on 28.08.2015. Subsequently, the petitioner took over the company M/s.Pipelines & Process Equipments Private Limited and submitted an application for an additional overdraft cash credit facility. However, the said request was not considered and rejected. After repayment of the entire loan amount, the petitioner requested the first respondent to return back all the original title deeds which were deposited while availing the loan. However, the first respondent stated that there is still some amount due from M/s.Cethar Vessels Limited which is owned by one of the directors of the petitioner's father, committed default in repayment of the loan amount. Therefore, the petitioner lodged a complaint before the second respondent and the same was also rejected on the very same ground.



W.P(MD)No.305 of 2019

WEB COPY

5. On perusal of records would reveal that M/s.Cethar Vessels Limited is no way connected with the petitioner company. Neither the Directors of the petitioner nor the Directors of M/s.Cethar Limited are the Director of the petitioner's company. Though the proceedings under the Companies Act as well as other proceedings are initiated as against M/s.Cethar Limited, it is no way connected to the petitioner company. Admittedly, there is no due by the petitioner for the overdraft cash credit facility availed by the petitioner. The property which was deposited belonged to the Directors of the petitioner and it is no way connected with the Directors of M/s.Cethar Limited. In fact, the petitioner's company is an independent existence and it was formed during 1980 long prior to the incorporation of M/s.Cethar Limited. That apart, the proceedings against M/s.Cethar Limited are pending before the National Company Law Tribunal and mere pendency of the proceedings cannot be a ground to withhold the documents which were deposited by the petitioner while availing loan.



W.P(MD)No.305 of 2019

6.The contention of the first respondent that M/s.Cethar Private Limited and the petitioner company are not different legal entities and true affairs can be seen by piercing the corporate veil of the petitioner company cannot be countenanced. Further, the contention of the first respondent that the petitioner's entity is used by M/s.Cethar Private Limited for the purpose of evading the huge liability of public money also cannot be countenanced, since the petitioner and M/s.Cethar Private Limited is no way connected with each other. As stated supra, both the Directors of the entity are completely different one. In view of the above, the order passed by the second respondent cannot be sustained and the same is liable to be quashed.

7.Accordingly, the impugned order passed by the second respondent, dated 06.07.2018 is quashed. The first respondent is directed to release all the original title deeds which were deposited by the petitioner at the time of operating Overdraft Cash Credit on 28.08.2015 in terms of the Loan Closure letter dated 06.04.2018 and No Objection Letter dated 15.05.2018 issued by the first respondent bank forthwith.



W.P(MD)No.305 of 2019

8.With the above directions, this Writ Petition is allowed.

There shall be no order as to costs.

WEB COPY

26.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps



W.P(MD)No.305 of 2019

WEB COPY

To

- 1.Chief Manager,
Represented by M/s.Andhra Bank,
Trichy Main Road,
100-A, Ground Floor,
Naveen Plaza,
Woraiyur,
Tiruchirapalli – 620 003.
- 2.Assistant General Manager,
Represented by the Office of the Banking Ombudsman,
Reserve Bank of India Building (IInd Floor),
Fort Glacis, Post Box No.40,
No.16, Rajaji Salai,
Chennai – 600 001.



WEB COPY



W.P(MD)No.305 of 2019

G.K.ILANTHIRAIYAN, J.

ps

Order made in
W.P(MD)No.305 of 2019

26.11.2024