

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/11/2015

C O R A M

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

Writ Petition No.30357 of 2015

Mr.P.N.Shankar

...Petitioner

Vs.

1. The Assistant Commissioner and Recovery Officer
Employees Provident Fund Organisation
S-1 TNHB Phase III
Sathuvachary
Vellore.
2. The Regional Provident Fund Commissioner
Regional Office
No.37 Royapettah High Road
Chennai 600 014.
3. The Sub-Registrar
Tirupattur
Vellore District.
4. The Tahsildar, Tirupattur
Vellore District.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records in impugned proceedings No.TB/VL/38629/Recovery/2015 dated 14/8/2015 on the file of the first respondent herein and quash the same.

For petitioner

... Mr.S.Sadasharam

For respondents

... Mrs.V.J.Latha

for R.R.1 and 2.

Mr.R.Lakshmi Narayanan

Additional Government Pleader

for R.R.3 and 4.

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O R D E R

With the consent of the learned counsel appearing for the parties, this writ petition is taken up for final disposal.

2. Heard Mr.S.Sadasharam, learned counsel appearing for the petitioner, Mrs.V.J.Latha for the respondents 1 and 2 and Mr.R.Lakshmi Narayanan, learned Additional Government Pleader for the respondents 3 and 4.

3. This writ petition has been filed praying to quash the impugned proceedings passed by the first respondent in TB/VL/38629/Recovery/2015 dated 14/8/2015.

4. By the aforesaid proceedings, the fifth respondent was requested to furnish the details of the property owned by the petitioner in T.S.No.1298/2. The petitioner has challenged the impugned proceedings, raising several grounds primarily on the ground that as against the order of assessment passed by the first respondent, the petitioner and his mother Tmt.N.Vijayalakshmi, preferred an appeal before the Employees Provident Fund Appellate Tribunal at New Delhi, challenging the order dated 30/3/2012, based on which the impugned proceedings have been issued.

5. At the time when the writ petition was posted for admission, this Court by an order dated 13/10/2015, directed the petitioner to file an affidavit to the effect that pending disposal of W.P.No.18688 of 2014 (filed challenging the order of attachment), the petitioner will not alienate or encumber or create third party rights in respect of the property, which is the subject matter of attachment.

6. Accordingly, the petitioner has filed an affidavit dated 29/10/2015 and the operative portion of the same reads as follows:-

"2. I submit that I am the absolute owner of the house, ground and premises bearing Door No.177, Chinnakadai veethi, Thirupathur, Vellore District that stands attached by order of the Recovery Officer of Employees Provident Fund Organisation, Sub-Regional Office, Vellore, by order dated 22/1/2014.

3. I submit that I have already filed a case in W.P.No.18688 of 2014 challenging the order dated 20/5/2014 issued following the order of attachment dated 22/1/2014.

Now, I have filed a case in W.P.No.30357 of 2015 challenging the impugned order dated 14/8/2015 directing the recording of attachment in the office of the Sub-Registrar with reference to the above said property.

4. In the above said circumstances, I hereby undertake that I will not alienate the property bearing Door No.177 Chinnakadai Veethi, Thirupattur, Vellore District, comprised in T.S.No.1298/2 which belongs to me absolutely, till the disposal of the case in W.P.No.18688 of 2014. "

The above affidavit shall form part of the record.

7. The grievance of the petitioner is that steps have been taken to recover the amount when the appeal petition is pending and the petitioner has also prayed for stay of recovery in the appeal petition before the Appellate Tribunal.

8. In my view, the proper course would be for the petitioner to pursue the prayer for stay. It is submitted that the appeal is still pending along with the prayer for stay and the petitioner would pursue the matter before the Appellate Tribunal and prays before this Court for certain directions, so that the stay petition may be heard at an early date.

9. Accordingly, the Employees Provident Fund Appellate Tribunal, is directed to consider the petitioner's prayer for stay, if the appeal petition is in order, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. Till orders are passed on the stay petition, no further coercive steps shall be taken by the first respondent against the petitioner in the light of the undertaking affidavit filed before this Court.

10. With the above direction, this writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.
mvs

Sd/-
Asst.Registrar

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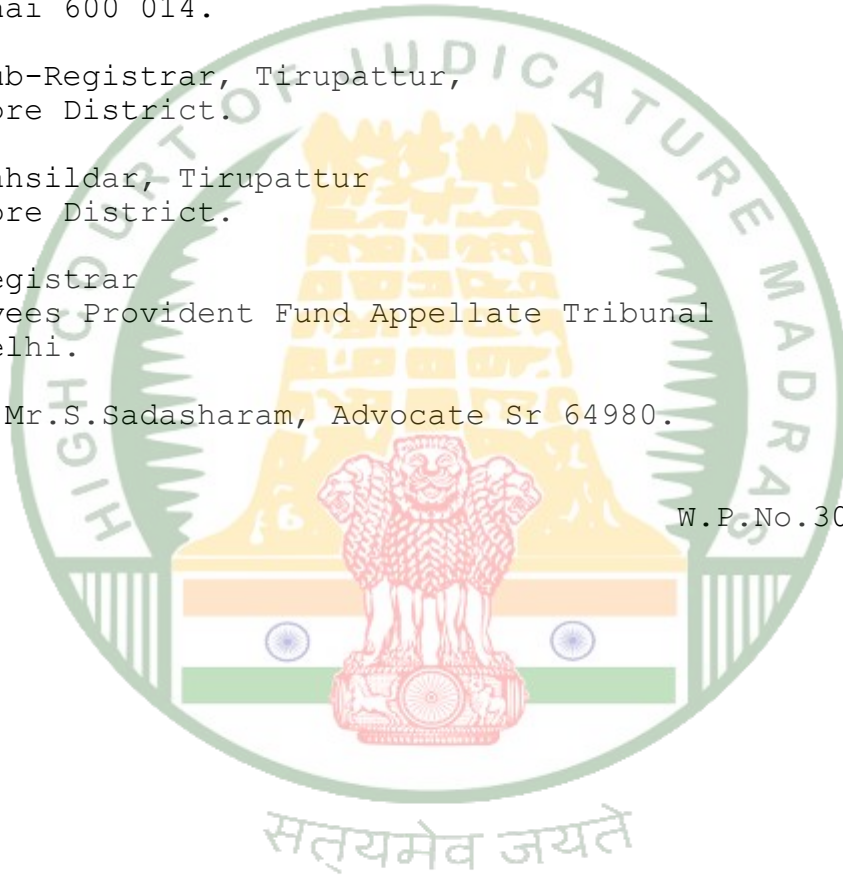
Sub Asst. Registrar

To

1. The Assistant Commissioner and Recovery Officer
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 2. The Regional Provident Fund Commissioner
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 3. The Sub-Registrar, Tirupattur,
Vellore District.
 4. The Tahsildar, Tirupattur
Vellore District.
 5. The Registrar
Employees Provident Fund Appellate Tribunal
New Delhi.
- + 1 cc to Mr.S.Sadasharam, Advocate Sr 64980.

W.P.No.30357 of 2015

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