

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA & THE STATE OF ANDHRA
PRADESH

* * *

WRIT PETITION No. 35193 of 2015

BETWEEN

Radhika Agarwal and others

... PETITIONERS

AND

The State Bank of India, rep. by its Managing Director and another

...RESPONDENTS

Date of Order pronounced: 29.10.2015

THE HON'BLE SRI JUSTICE VILAS V. AFZULPURKAR

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| 1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be
marked to Law Reporters/Journals? | Yes/No |
| 3. Whether his Lordship wish to see the
fair copy of the Judgment? | Yes/No |

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ORDER:-

Heard.

2. Petitioners state that they have deposited various amounts under term deposits with the second respondent-bank. But the said deposits have been erroneously appropriated by the Bank though there were no instructions from

the petitioners. Though initially learned counsel for the petitioners made very emphatic submission on the basis of pay in slip, (copy of which is produced along with the writ petition), on deeper examination of the matter, I find that the petitioners have already approached the State Consumer Disputes Redressal Commission by filing complaint case viz., C.C.No.92 of 2013 and batch. On the self same allegations and seeking recovery of the amount and damages, the said consumer case after due enquiry has, however, been considered and dismissed by the State Commission by its order dated 09.07.2014 whereunder the Commissioner was of the view that since complicated questions of fact are involved in the adjudication of the matter, petitioners are directed to approach the competent civil court or any other court. The Commissioner also made observations that the time spent by the petitioners before the Commissioner will be excludable under Section 14 of the Limitation Act, 1963. However, even thereafter petitioners have not moved the civil court and have filed the present writ petition on 13.10.2015.

3. It is apparent that several disputed questions of fact arise in the matter as rightly observed by the Commissioner and, as such, this Court under Article 226 of the Constitution of India would not adjudicate upon such questions. In addition to that, the relief sought for in the writ petition is in the nature of recovery of amounts covered by the various term deposits together with interest and the said relief clearly amounts to suit for recovery of amount, which cannot be filed under the guise of writ petition under Article 226 of the constitution of India. It is accepted that petitioners have not moved the National Commission against the orders of the State Commission nor has approached the civil court and as it appears the order of the State Commission has attained finality as on this date, for more than one reason, I am not inclined to entertain the writ petition.

The writ petition is accordingly dismissed. As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

VILAS V. AFZULPURKAR, J

October 29, 2015
LMV

