

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.11771 of 2016

&

W.M.P.No.10169 of 2016

D.Rajeswari

...Petitioner

Vs.

1. The Regional Manager,
Syndicate Bank,
I Floor, Leelavathi Building,
No.69, Armenian Street,
Chennai - 600 001.

2. The Manager,
Syndicate Bank,
No.793, Dr.Ramasamy Salai,
K.K.Nagar, Chennai - 600 078.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to forbear the respondents from deducting any money from the petitioner's Family Pension Credited in her Savings Bank Account No.60292030000999 maintained with the second respondent bank in any manner whatsoever and to refund the amount deducted from her family pension illegally by the second respondent bank with interest.

For Petitioner : Mr.P.Mohanraj

For Respondents : Mr.V.Suthakar

ORDER

This Writ Petition has been filed to forbear the respondents from deducting any money from the petitioner's Family Pension Credited in her Savings Bank Account maintained with the second respondent bank in any manner whatsoever and to refund the amount deducted from her family pension illegally by the second respondent bank with interest.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The case of the petitioner is that the husband of the petitioner, who has worked as a Helper Grade-I in the Southern Railway has retired from her service in the year 2010 and due to his demise on 15.05.2015, she is entitled to family pension. In fact she is being paid family pension after the demise of her husband. Suddenly, the petitioner was not permitted to draw the family pension credited in account and her account has been freezed by the second respondent. Hence, the petitioner made a representation to the second respondent on 11.12.2015 to permit her to withdraw her family pension. The second respondent has sent a reply stating that as her husband stood as guarantor for the loan obtained by one Pannerselvam and for recovering the said dues, the second respondent has frozen her bank account. According to the petitioner, her family cannot be stopped for any purpose including any earlier outstanding dues as per the judgment of the Apex Court and per the judgments of this Court. Hence, the petitioner has come forward with the present Writ Petition.

4. The learned counsel for the respondents would submit that the suit filed for recovering of the dues has been decreed and the Execution Proceedings is pending and as the husband of the petitioner has stood as a guarantor for the said loan, the respondents are liable to recover the said dues from the petitioner.

5. It is well settled law that family pension of the individual cannot be attached for realization of any outstanding dues payable by the petitioner as per the Judgment of the Honourable Supreme Court reported in (Radhey Shyam Gupta Vs. Punjab National Bank and another) 2009(1) SCC 376 which reads as follows :

"However, we are also of the view that having regard to proviso (g) to Section 60(1) of the Code, the High Court committed a jurisdictional error in directing that a portion of the decretal amount be satisfied from the fixed deposit receipts of the appellant held by the Bank. The High Court also erred in placing the onus on the appellant to produce the Matador in question for being auctioned for recovery of the decretal dues. In other words, the High Court erred in altering the decree of the trial court in its revisional jurisdiction, particularly, when the pension and gratuity of the appellant, which had been converted into fixed deposits, could not be attached under the provisions of the Code of Civil Procedure. The decision in Jyothi Chit Fund case has been considerably watered down by later decision which have

been indicated in para 22 herein before and it has been held that gratuity payable would not be liable to attachment for satisfaction of a court decree in view of proviso (g) to Section 60(1) of the Code."

Under these circumstances, it is always open to the respondent bank to recover their dues in accordance with law and through the Execution Proceedings. Hence, the respondents are directed to release the frozen account of the petitioner and the petitioner has to be paid the money with the accrued interest available in the deposit.

6. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vrc

To

1. The Regional Manager,
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No.69, Armenian Street,
Chennai - 600 001.

2. The Manager,
Syndicate Bank,
No.793, Dr.Ramasamy Salai,
K.K.Nagar, Chennai - 600 078.

+1cc to Mr.P.Mohanraj, Advocate, S.R.No. 70198

+1cc to Mr.V.Suthakar, Advocate, S.R.No. 70159

W.P.No.11771 of 2016

SR (CO)
PSI (28/12/2016)