

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.NO.15009 OF 2016
AND WMP.NOS.13096 AND 13097 OF 2016

M/s.Vidhya Hospital
Rep. By its Managing Partner M.Sivakumar
S/o.T.V. Manikavasagam
103C, Thamilsangam Road,
Sankar Nagar, Salem - 7. ... Petitioner

Versus

1.The Regional Provident Fund Commissioner
Recovery Officer
Employees Provident Fund Organization
Sub-Regional Office, S.J. Plaza,
Anna Salai,
Salem - 636 004.

2.The Assistant Provident Fund Commissioner
Employees Provident Fund Organization
Sub-Regional Office, S.J. Plaza,
Anna Salai,
Salem - 636 004.

3.The Branch Manager
Indus Ind Bank
Alagapuram,
Salem.

Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records of the first respondent made in TN/SLM/47595/8F/RECOVERY/2015-16 dated 09.03.2016 and quash the same as illegal and arbitrary.

For Petitioner : Mr.S.Muthukrishnan

O R D E R

Heard the learned counsel appearing for the petitioner.

2.The petitioner has filed this writ petition

challenging the attachment order passed by the respondent organization dated 09.03.2016.

3.The petitioner is a Hospital and it is covered under the provisions of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 and the rules framed thereunder. On account of delayed remittance, the authorities have imposed damages and interest on the petitioner.

4.Challenging the same, the petitioner has preferred an appeal before the Employees' Provident Fund Appellate Tribunal and such appeals ought to have been filed before the Southern Bench at Bengaluru. But, since the Presiding Officer is yet to be appointed, the petitioner has preferred the appeal before the Appellate Tribunal at New Delhi and the appeal has been taken on file as ATA NO.1374(13)/2014.

5.In the meantime, since coercive action was taken and proceedings were initiated against the petitioner vide proceedings dated 15.10.2014, the petitioner has approached this Court by filing writ petition in W.P.No.13237 of 2015. This Court, while entertaining the said writ petition, has granted an order of interim stay, subject to the condition that the petitioner shall deposit a sum of Rs.1,00,000/-.

6.It is now submitted by the learned counsel for the petitioner that due to financial constraint, the said amount could not be remitted, as a result of which, the impugned proceedings have been passed attaching the petitioner's Bank account.

7.It is brought to the notice of this Court that in respect of an identical issue, the matter was dealt with by the Honourable Supreme Court in W.P.(Civil) No.999 of 2014 dated 20.03.2015 and the Honourable Supreme Court has issued a general direction to the effect that in respect of the appeals that ought to have been filed at Bengaluru and are filed in Delhi, no coercive steps shall be taken in respect of the cases which are required to be preferred before the Southern Tribunal to be constituted at Bengaluru, for there is no authority who can take up the matter for grant of any interim relief. The benefit of such order should be enure in favour of the petitioner also. Therefore, till the petitioner's appeal petition is heard on merits and in accordance with law, the respondents should not take any coercive action.

8.However, in the instant case, since interim order was granted in the writ petition filed by the petitioner himself, the petitioner is bound to comply with the said condition.

9.It is submitted by the learned counsel for the petitioner that already a sum of Rs.50,000/- has been recovered from the petitioner's bank account, pursuant to the order of attachment. Therefore, the petitioner is directed to remit the balance amount of Rs.50,000/- within a period of six weeks from the date of receipt of a copy of this order.

10.With the above direction and following the orders passed by the Honourable Supreme Court, the respondents are directed not to take any coercive action against the petitioner, till the appeal / stay petition is heard and decided by the Southern Bench of the Appellate Tribunal at Bengaluru. However, the petitioner has to remit the sum of Rs.50,000/- as ordered, within the above said time frame.

11.In the light of the above observation and direction, the order of attachment shall stand raised. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

TK

To

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Recovery Officer
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Alagapuram, Salem.

+ 1 cc to Mr.M. Sridhar, Advocate Sr.24985

W.P.NO.15009 OF 2016

NR-II(CO)
EU 26.4.16