

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

and

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

W.A.No.1507 of 2017

and C.M.P.No.19896 of 2017

1. The Joint Director,
Integrated Child Development Scheme,
Social Welfare Department,
Taramani, Chennai-600 113.
 2. The District Planning Officer,
Integrated Child Development Scheme,
Social Welfare Department,
Teynampet, Chennai-600 018.
 3. The Pay and Accounts Officer,
Pay and Accounts Office (North),
Singaravelar Maligai,
Collectorate Building,
Rajaji Salai, Chennai-600 001.
- .. Appellants

Vs.

1. M.H.Fathima Mariam
 2. The Manager,
Central Bank of India,
Huzur Garden, Sembium,
Chennai-600 011.
 3. The Karur Vysya Bank Limited,
Egmore Branch,
No.44/1, Pantheon Road,
Egmore, Chennai-600 008.
- .. Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 22.06.2017, passed in W.P.No.8769 of 2017.

Prayer in WP.8769/2017:Petition filed under Article 226 of the Consitution of India praying to issue a Writ of Certiorarified Mandamus to call call for the records of the 3rd respondent vide its Order PAO(N) 1/2016 dated 12.09.2016 quash the same and consequently direct the respondent 1 to 3 to pay Death cum Retirement Gratuity and Special Provident Fund Which has been unauthorizedly blocked on the instructions of the 3rd respondent.

For Appellants : Mr.K.Dhananjayan,
Special Government Pleader

For Respondents: Mr.Karthikeyan for R1

JUDGMENT

[Judgment of the Court was made by RAJIV SHAKDHER, J.]

1. The first respondent, who is the original writ petitioner, had approached the learned Single Judge by way of writ petition under Article 226 of the Constitution, for quashing the order of the appellant No.3, i.e., Pay and Accounts Officer, dated 12.09.2016, and for a further direction that the appellants herein should be directed to pay her Death-cum-Retirement Gratuity (in short, "DCRG") and Special Provident Fund (in short, "SPF"), which had been, unauthorisedly, blocked by appellant No.3.

2. The learned Single Judge vide the impugned judgement, after recording that respondent No.1/original writ petitioner, is not at fault, and that, the money had been misappropriated by, one, Tmt.R.Vadivazhagi, directed the appellants herein to pay respondent No.1/original writ petitioner, the dues together with interest at the rate of 6% p.a., within six (6) weeks from the date of receipt of his order.

2.1. Furthermore, learned Single Judge has also directed that stringent action should be taken by appellant No.1 against the erring Superintendent, i.e., Tmt.R.Vadivazhagi, albeit, in accordance with law.

2.2. In addition thereto, a direction has been specifically issued by the learned Single Judge, to the effect, that appellant No.1 would pay a sum of Rs.5,83,407/-, to respondent No.1/original writ petitioner and recover the said amount from the said Superintendent, i.e., Tmt.R.Vadivazhagi.

3. Learned Special Government Pleader, who appears for the appellants, says that, since then steps have been taken, and that, the concerned Superintendent, i.e., Tmt.R.Vadivazhagi, has been suspended from service.

3.1. We are told a criminal proceedings have also been initiated against the Superintendent, i.e., Tmt.R.Vadivazhagi and other persons, who are suspected to be involved in the misappropriation of funds belonging to the organization.

3.2. The only grievance of the appellants before us, have, is that, the organization having drawn the funds with regard to the DCRG and SPF of respondent No.1/original writ petitioner, it cannot redo the exercise, once again, and pay the amount to respondent No.1, as directed by the learned Single Judge.

4. According to us, this plea is specious, as even, according to the appellants, respondent No.1/original writ petitioner has not received her dues, which were claimed via the writ petition before the learned Single Judge. The fact that the funds have been misappropriated by someone else and in this case, the allegation is directed against the Superintendent Tmt.R.Vadivazhagi, cannot relieve the appellants of their responsibility. The appellants may have to approach the Government for securing funds, but that cannot, as indicated above, absolve them of their obligation and responsibility qua respondent No.1.

5. In these circumstances, we are of the view that no interference is called for with the order of the learned Single Judge.

5.1. We may, however, indicate in so far as the direction contained in the learned Single Judge's order that the moneys should be recovered from the Superintendent, i.e., Tmt.R.Vadivazhagi, can only trigger, if at all, once, it is established in an enquiry that she had misappropriated the funds.

6. With these observations, the appeal is dismissed, being devoid of merit. Needless to say that the appellants will comply with the directions of the learned Single Judge, no later than 08.12.2017.

7. List "for compliance" on 11.12.2017.

Sd/-

Assistant Registrar (CS II)

//True copy//

Sub Assistant Registrar

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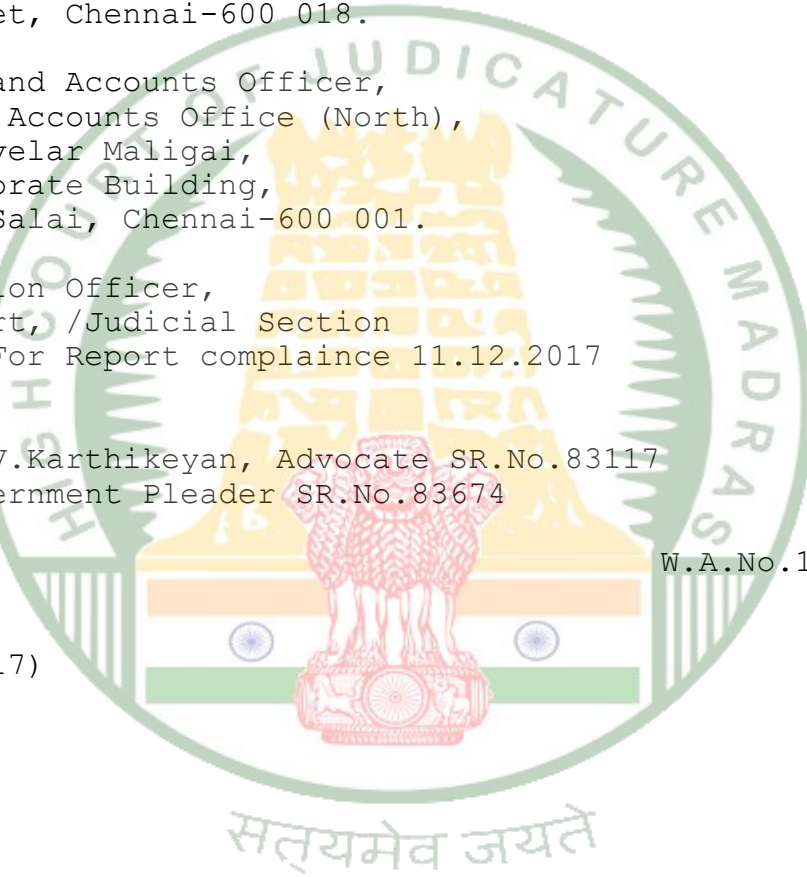
To

1. The Joint Director,
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2. The District Planning Officer,
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Pay and Accounts Office (North),
Singaravelar Maligai,
Collectorate Building,
Rajaji Salai, Chennai-600 001.
4. The Section Officer,
High Court, /Judicial Section
Madras. For Report complaine 11.12.2017

+1cc to Mr.V.Karthikeyan, Advocate SR.No.83117
+1cc to Government Pleader SR.No.83674

W.A.No.1507 of 2017

RSK(CO)
GN(29/11/2017)



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