

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN

and

THE HONOURABLE MR.JUSTICE P. VELMURUGAN

W.A.Nos.856, 857, 858, 859, 860 and 861 of 2010

and

MP Nos.1 of 2010 (6 Nos.)

Thiruthuraipoondi Co-operative Urban Bank Ltd.,
rep by its Special Officer/Management,
Mela Veedhi,
Thiruthuraipoondi-614 713
Thiruvarur District

.... Appellant in all the writ appeals

-vs-

1. The District Consumer Redressal Forum,
Thiruvarur 1st respondent in all the writ appeals
- S. Venkatachalam 2nd respondent in WA No.856 of 2010
- V. Ganesan 2nd respondent in WA No.857 of 2010
- S.S. Natarajan 2nd respondent in WA No.858 of 2010
- G. Subramanian 2nd respondent in WA No.859 of 2010
- C. Balakrishnan 2nd respondent in WA No.860 of 2010
- S. Velayudham 2nd respondent in WA No.861 of 2010

PRAYER: Writ Appeals filed under Clause 15 of Letters Patent against the order passed in WP Nos.30371 of 2004; 30372 of 2004; 30373 of 2004; 30615 of 2004; 30616 of 2004 and 30617 of 2004 dated 19.02.2010.

WP.Nos.30371/04,30372/04,30373/04,30615/04,
30616/04 & 30617/04:

Petitions under Article 226 of the Constitution of India, praying for writs of prohibition prohibiting the first respondent from proceedings further with the

C.O.P.No.27 of 2004 in WP.No.30371 of 2004
C.O.P.No.31 of 2004 in WP.No.30372 of 2004
C.O.P.No.28 of 2004 in WP.No.30373 of 2004
C.O.P.No.29 of 2004 in WP.No.30615 of 2004
C.O.P.No.32 of 2004 in WP.No.30616 of 2004
C.O.P.No.30 of 2004 in WP.No.30617 of 2004

on the file of the District Consumer Redressal Forum, Thiruvarur, the 1st respondent herein.

For Appellant : Mr.R. Gowthaman
For Respondents: Mr.S.Sivshanmugam for R.2
: R.1 - Court

COMMON JUDGMENT

[Judgment of the Court was delivered by
K.K. SASIDHARAN, J.]

The second respondent in the respective appeals preferred a complaint before the The District Consumer Redressal Forum, Thiruvarur against the appellant Bank on the ground that payment of Provident Fund, along with interest, was not paid. The District Consumer Redressal Forum entertained the complaint and issued notice to the appellant. The appellant filed counter affidavit before the District Consumer Redressal Forum, challenging the proceedings. The appellant appears to have taken up a contention that the complaint of this nature is not maintainable before the Consumer Forum.

2. The appellant, thereafter, filed Writ Petitions before this Court to issue a Writ of Prohibition and to restrain the District Consumer Redressal Forum from proceeding further. The writ petitions were dismissed by the learned Single Judge by placing reliance on the decision of the Hon'ble Supreme Court in Secretary, Thirumurugan Co-operative Agricultural Credit Society vs M. Lalitha (dead) through Lrs reported in 2004 (1) SCC 305. Feeling aggrieved by the Common Order dated 19.02.2010 in W.P.Nos.30371 to 30373, 30615 to 30617 of 2004, the respondent in the respective complaints is before this Court.

3. The learned counsel for the appellant, by placing reliance on the judgment of the Hon'ble Supreme Court in Jagmittar Sain Bhagat and others vs Director, Health Services, Haryana and Others reported in (2013) 10 SCC 136 and also the decision of the Full Bench of the National Consumer Disputes Redressal Commission, New Delhi in Central Bank of India vs Dil Bahadur Singh reported in III (1993) CPJ 319 (NC), contended that the complaints regarding delayed payment of provident fund are not maintainable before the Consumer Forum. According to the learned counsel, the District Consumer Redressal Forum was not correct in entertaining the complaints, raised by the respondent in the respective appeals.

4. The learned counsel for the respondent in the respective appeals submitted that the District Consumer Redressal Forum was correct in entertaining the complaints on

account of the decision of the Hon'ble Supreme Court in Secretary, Thirumurugan Co-operative Agricultural Credit Society vs M. Lalitha (dead) through Lrs reported in 2004 (1) SCC 305.

5. The respondent in the respective appeals herein (hereinafter referred to as " employees") instituted individual complaints before the District Consumer Redressal Forum against the appellant on the ground that part of the provident fund along with interest has not been paid to them within a reasonable period.

6. The District Consumer Redressal Forum entertained the complaints and issued notice to the appellant Bank. Before the District Consumer Redressal Forum, the appellant filed a counter statement, wherein, contention was taken that the very complaint is legally not maintainable.

7. According to the appellant, District Consumer Redressal Forum failed to take note of the objection with regard to the jurisdiction and proceeded to hear the complaint. It was under the said circumstances, the appellant filed the writ petitions. The learned Single Judge placed reliance on a decision of the Hon'ble Supreme Court in Secretary, Thirumurugan Co-operative Agricultural Credit Society vs M. Lalitha (dead) through Lrs reported in 2004 (1) SCC 305, wherein, it was indicated that the complaint would lie against the Bank before the District Consumer Redressal Forum.

8. The appellant has taken up a substantial contention with regard to the jurisdiction of the District Consumer Redressal Forum. Even if the Forum has jurisdiction, still the question arises as to whether the relief of this nature can be granted by the Forum.

9. After hearing the learned counsel for the appellant and the learned counsel for the employees, we are of the view that interest of justice would be subserved by directing the first respondent herein to take up the issue with regard to jurisdiction as a preliminary issue. It is open to the appellant and the second respondent to make submissions before the District Consumer Redressal Forum with regard to the maintainability of the complaints. The District Consumer Redressal Forum is directed to frame a preliminary issue with regard to jurisdiction and answer the same on merits. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this Judgment.

10. The intracourt appeals are disposed of with the above direction. Consequently, connected MPs are closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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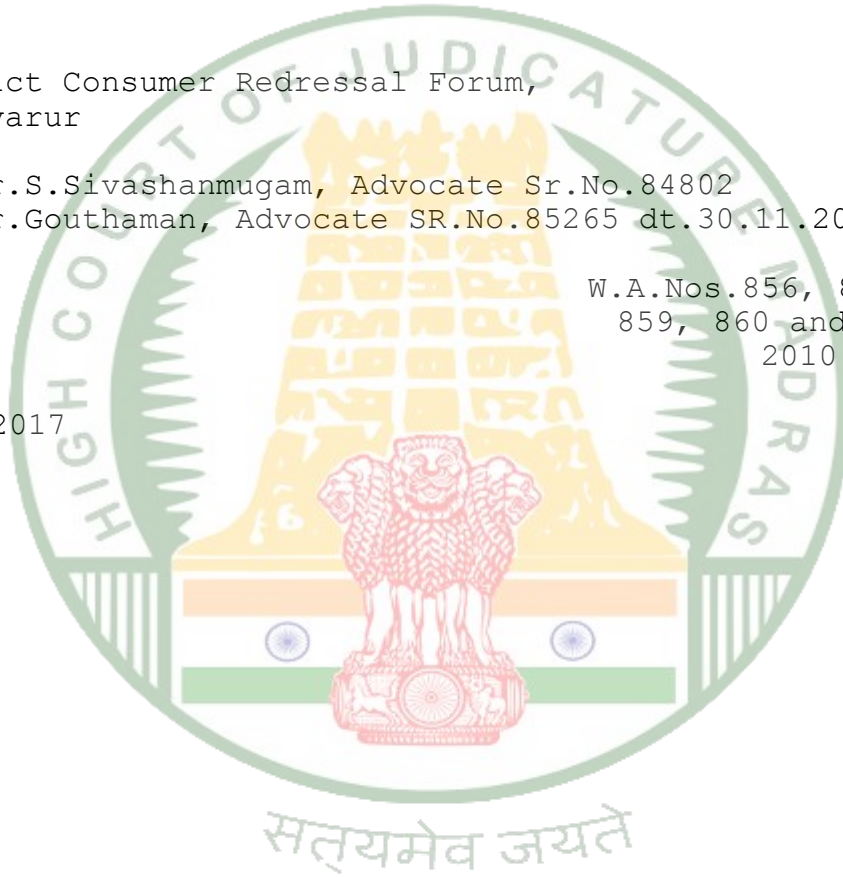
The District Consumer Redressal Forum,
Thiruvarur

+lcc to Mr.S.Sivashanmugam, Advocate Sr.No.84802

+lcc to Mr.Gouthaman, Advocate SR.No.85265 dt.30.11.2017

W.A.Nos.856, 857, 858,
859, 860 and 861 of
2010

MR(CO)
sm:28.12.2017



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