

THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.14560 of 2012

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking verbatim the following relief:

“... it is therefore prayed that this Hon'ble Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the proceedings No. AP/ SRO/ WGL/ REC/ 26466/ 2012/ 13 dt.26.4.2012 communicated on 3.5.2012 issued by the 1st respondent under Section-8(f)(3)(x) of E.P.F.Act, 1962 where under the attachment of salaries have been effected and to declare the impugned action as illegal, arbitrary and violative rights guaranteed under Article 14 and 21 of the Constitution of India and further violative of Section-172 and 173 of the Contract Act, 1872 and consequently set-aside the same and pass such other order or orders as this Hon'ble Court may deem think fit and proper in the circumstances of the case.”

2. I have heard the submissions of the learned counsel for the petitioners and of the learned Standing Counsel appearing for the respondents.

3. I have perused the material record.

4. The core issue appears to be that in spite of the notice, the Branch Manager, State Bank of Hyderabad, ADB Branch, Nalgonda, failed to make payment, which is required to made to the Central Provident Fund Commissioner and, therefore, the orders impugned in this writ petition were passed ordering attachment of salary of the Branch Manager of State Bank of Hyderabad, ADB Branch, Nalgonda. Aggrieved thereof, the writ petitioners filed this writ petition.

5. The hub of the factual matrix, as per submissions made before this court, is as follows:

The Recovery Officer, Employees' Provident Fund Organisation, issued a notice dated 01.03.2012 advising State Bank of Hyderabad, ADB Branch, to remit an amount of Rs.5,89,569/- in favour of the Regional Provident Fund Commissioner-II, SRO, Warangal, from the amount due and payable to M/s.Madeena Junior & Degree College, Wyra Road, Khammam. However, to the said notice the petitioners sent a reply to the Recovery Officer stating that the Branch of the Bank is not having any account in the name and style of the defaulter M/s.Madeena Junior & Degree College, Khammam, and that the term deposit receipts were held in the joint names of the President of the said Madeena Educational Society, Khammam, and the Regional Officer, SRO of AICTE, Chennai, but not in the name as mentioned in the order of the Recovery Officer and, therefore, it is not possible to attach the amount and remit the same by way of DD in favour of Assistant Provident Fund Commissioner, SRO, Warangal. Despite the said representation of the petitioners-Bank, the impugned order came to be passed ordering attachment of the salary of the Branch Manager concerned. In that view of the matter, the present writ petition is filed reiterating the stand of the Bank, which is stated supra.

6. Learned Standing Counsel brings to the notice of the court following further facts: The petitioners are declared deemed defaulters and a notice was also issued before the impugned order was passed; hence, in passing the said orders, the respondents

have not exceeded their jurisdiction; on reconciliation of the dues payable by the employer, the amount was arrived at Rs.5,56,654/- as on 05.03.2014; on the visit made by the Enforcement Officer, the employer has submitted a Demand Draft dated 04.03.2014 for Rs.70,000/- towards arrears/dues; the Enforcement Officer was informed that the employer is maintaining account with the Andhra Bank, Burhanpuram branch, Khammam; accordingly the first respondent issued prohibitory order for an amount of Rs.4,86,654/-; and, directions were issued to the Enforcement Officer to execute the same on the said bankers; the same was executed upon the bankers, on 21.09.2015, and the accounts are freezed; the Enforcement Officer has forwarded Demand Draft dated 29.09.2015 collected from the Branch Manager of Andhra Bank, Burhanpuram Branch against prohibitory order; the employer was already informed that a balance of Rs.37,654/- is still due to be remitted; the employer has then submitted a DD for an amount of Rs.38,000/-; and, the total arrears due were recovered and the order against the bank account was revoked on 30.09.2015.' In consequence, the learned Standing Counsel would submit that as on today the entire dues are recovered.

7. In view of the subsequent events, learned counsel for the petitioner would submit that there is no necessity to continue the impugned order attaching the salary of the Branch Manager concerned and therefore, the writ petition may be disposed of setting aside the impugned orders after recording the submissions of the learned Standing Counsel that entire dues are recovered.

8. Recording the submissions, the Writ Petition is disposed of duly setting aside the order impugned in this writ petition, as prayed for, as continuation of such order impugned in the writ petition is no longer necessary in view of the recovery of the entire subject dues by the respondents.

Miscellaneous petitions pending, if any, shall stand closed.
There shall be no order as to costs.

JUSTICE M. SEETHARAMA MURTI

April 4, 2017
LMV

