

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.2382 of 2017

P.Renuka

.. Petitioner

-vs-

1.The Bank Manager,
Canara Bank, 124,
Old Mahabalipuram Road,
Sholinganallur,
Chennai-600 119.

2.Pasupathy

.. Respondents

(R2 impleaded as per Order dated 23.11.2017 by KRCBJ
in WMP. No.31826 of 2017 in W.P. No.2382 of 2017)

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to proceedings of letter dated 28.09.2016 issued by the first respondent and quash the same and direct the first respondent to pay the Fixed Deposit Receipt amount Rs.5,00,000/- (five lakh rupees) along with interest of sum of Rs.3,87,916/- (Three lakh eighty seven thousand nine hundred and sixteen rupees only) to the petitioner from the date of writ petition till the date of realization.

For Petitioner :: Mr.G.Murugendran

For Respondents :: No appearance for R1 and R2

ORDER

The petitioner has come to this Court challenging the proceedings dated 28.09.2016 issued by the first respondent and seeking a direction to the first respondent to pay him the Fixed Deposit Receipt amount Rs.5,00,000/- (five lakh rupees) along with interest of a sum of Rs.3,87,916/- (Three lakh eighty seven thousand nine hundred and sixteen rupees only) from the date of this petition till the date of realization.

2.The case of the petitioner is that her mother in law namely Visalakshmi had deposited a sum of Rs.6,00,000/- on fixed deposit in the first respondent bank on 28.01.2009 and the duration of the period is 28.01.2009 to 27.12.2011 with interest at the rate of 9.5% per annum and she has been appointed as Nominee for the said fixed deposit. While so, her mother-in-law has been suffering from mental illness long back. Unfortunately, on 29.05.2010 she had left the house at morning 6.00 a.m. and thereafter, she did not turn up. After making several attempts to trace her, she had lodged a complaint before J-10 Semmencherry Police Station and a case was registered in F.I.R. No.361 of 2010. Despite such efforts, she was unable to trace her. Though after the police complaint, the same was informed to the first respondent Bank, they are not come forward to repay the said amount. In view of the attitude shown by the first respondent Bank, the petitioner sent a representation on 09.07.2016 to the said Bank. As there was no response from them, the petitioner has filed a Writ Petition in W.P. No.29455 of 2016 seeking a direction to the first respondent to consider her representation dated 09.07.2016, but the same has not been considered. Hence, she is before this Court seeking the above prayer.

3.This Court, by order dated 28.09.2016, directed the first respondent to consider and dispose of the petitioner's representation dated 09.07.2016 in accordance with law. However, the said respondent has refused to consider her representation saying that the settlement of claims in respect of missing persons is governed by the provisions of Sections 107 and 108 of Indian Evidence Act, 1872 wherein presumption of death can be raised only after a lapse of seven years from the date of his/her being reported missing. In view of the above provision, this Court finds that as seven years have been lapsed from the date of presumed missing, the petitioner is eligible to raise a claim by submitting requisite documents. Therefore, the first respondent Bank is directed to deposit the entire amount along with interest at the rate of 9.5% from the date of deposit till the date of realisation, within a period of two weeks from the date of receipt of a copy of this order. Accordingly, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vga

To

The Bank Manager,
Canara Bank, 124,
Old Mahabalipuram Road,
Sholinganallur,
Chennai-600 119.

+lcc to Mr.G.Murugendran, Advocate sr.no.39721

W.P. No.2382 of 2017

ss(co)
nr 03/07/2018



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