

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 30.04.2019

CORAM

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE MR. JUSTICE RMT. TEEKAA RAMAN
W.A.No. 1467 of 2013

&

M.P. No. 1 of 2013

1. The Special Officer,
The Villupuram Co-operative
Urban Bank, E-34,
No.149, Thiru Vi Ka Road,
Villupuram - 605 0602.

2. The Regional Joint Registrar,
Joint Registrar of Co-operative
Societies,
Villupuram.

..Appellants/Respondent

Vs.

M. Masilamani

..Respondent/Petitioner

Prayer: Writ Appeal as against the order dated 11.10.2012 in
W.P. No. 6312 of 2011.

WP.NO.6312/2011:

Writ Petition is filed Under Article 226 of the Constitution of India praying for a Writ Certiorarified Mandamus, Calling for the records relating to the order dt.26.6.2003 of the 1st respondent and quash the same as far as the petitioner is concerned and to direct the respondents to pay the Security Deposit Arrears of Employees Provident Fund Benefit with interest and the Balance Amount available in the petitioner account in SB Account No.3838 of the 1st respondent Bank.

For Appellants :: Mr.L.P.Shanmugasundaram
For Respondent :: Mrs.Rajani Ramadoss for
Mr.R. Muniyapparaj

J U D G M E N T

(Judgment of the Court was delivered by K.K. SASIDHARAN, J.)

This intra-court appeal is directed against the order dated 11.10.2012 in W.P. No. 6312 of 2011 whereby and whereunder the learned Single Judge quashed the order passed by the Special

Officer, Villupuram Co-operative Urban Bank, and directed the appellants to settle the entire benefits to the respondent. Feeling aggrieved, the Bank has come up with this intra-court appeal.

2. When this appeal came up for hearing before this Court earlier, we have directed the first appellant to calculate the total amount payable to the respondent. The Managing Director, Villupuram Co-operative Urban Bank has filed an affidavit dated 29 April, 2019 indicating the total amount payable to the respondent and the amount due to the Bank. As per the said calculation, a sum of Rs. 45,616/- is due to the respondent. According to the Bank, the respondent has to remit a sum of Rs.14,108.20 being the excess payment.

3. The learned counsel for the respondent submitted that without issuing notice to the respondent, demand was made to pay the alleged excess. According to the learned counsel, there was no act of misrepresentation on the part of the respondent so as to give a cause of action to the appellants to recover the money.

4. There is no dispute that the amount was sought to be recovered without issuing notice to the respondent. The proper course is to remit the matter to the appellants for passing fresh orders after issuing notice to the respondent. However, in the subject case, the respondent has already retired from service. There is no question of issuing notice to the respondent and passing fresh orders in view of efflux of time. We are therefore of the view that interest of justice will be subserved by directing the respondent to pay a sum of Rs.14,108.20 without liability to pay interest.

5. We permit the appellants to deduct a sum of Rs.14,108.20 out of the total amount of Rs.45,616/- due to the respondent and pay the balance sum of Rs. 31,507.80 within a period of one week from today failing which the amount would carry interest @ 12% per annum.

6. The intra-court appeal is disposed of with the above direction. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

TO:

1. The Special Officer,
The Villupuram Co-operative
Urban Bank, E-34,
No.149, Thiru Vi Ka Road,
Villupuram - 605 0602.
2. The Regional Joint Registrar,
Joint Registrar of Co-operative
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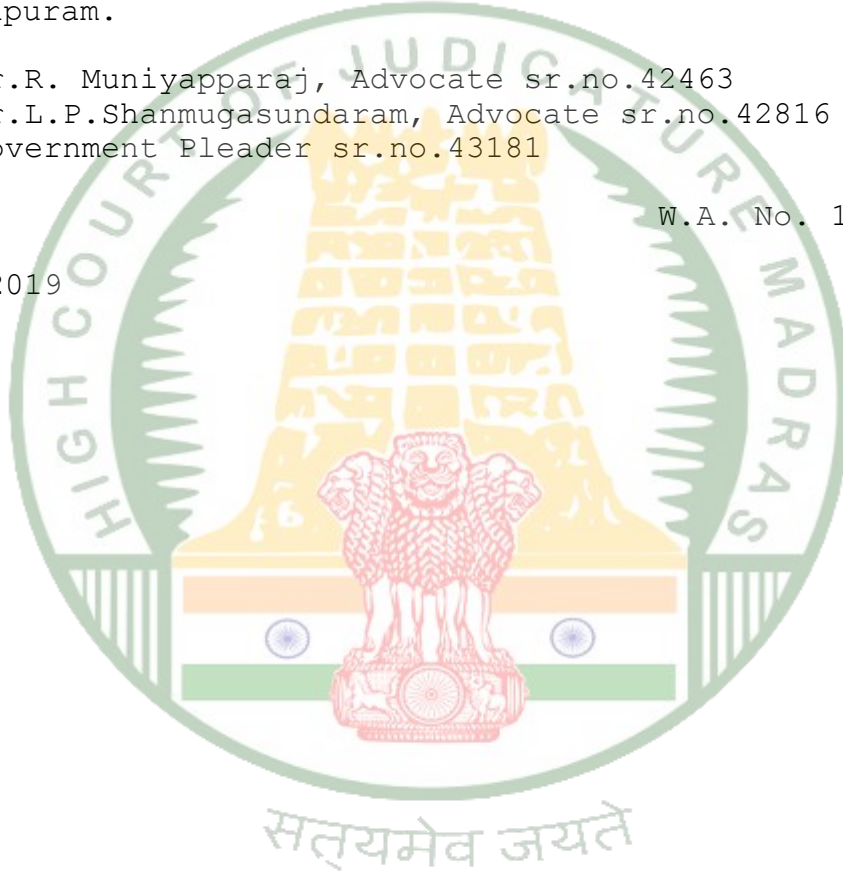
+1cc to Mr.R. Muniyapparaj, Advocate sr.no.42463

+1cc to Mr.L.P.Shanmugasundaram, Advocate sr.no.42816

+1cc to Government Pleader sr.no.43181

W.A. No. 1467 of 2013

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