

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2019

CORAM

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.4110 of 2019

V.Muthu

...Petitioner

Vs.

The Branch Manager,
Indian Bank, Thirukalukundram Branch,
89, Big Street,
Thirukalukundram Via,
Kanchipuram District
Pin Code-603109.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the Impugned Letter dated 26.10.2018 on the file of the respondent herein, quash the same and consequently direct the respondent herein to permit the petitioner to withdraw the sum of Rs.5,00,000/- lying in the S.B. A/C No.6610965554 of his daughter M.Rajeswari.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : Ms.S.R. Sumathy

O R D E R

Ms.S.R.Sumathy, learned counsel takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the proceedings of the respondent dated 26.10.2018, wherein and whereby, the respondent has directed the petitioner to provide the guardianship certificate in favour of the petitioner issued under the Mental Health Act, 1987 or by the Local level committee set up under "Mental Retardation and Multiple Disabilities Act, 1999", for the purpose of considering his request for withdrawal of money lying in the savings bank account of his daughter M.Rajeswari in A/c No.6610965554.

3. The case of the petitioner is as follows:

The said M.Rajeswari is the daughter of the petitioner and he performed her marriage with one S.Ram Kumar on 02.06.2014 and within 2 years of the marriage, the said S.Ram Kumar filed HMOP No.168 of 2016 on the file of the Family Court, Chengalpattu, seeking for divorce. Pending matrimonial proceedings, mediation took place between the parties, wherein, it was agreed to accede the request of divorce on a condition that her husband should pay a sum of Rs.7,00,000/- as compensation. Accordingly, HMOP No.168 of 2016 was allowed on 06.09.2018, dissolving the marriage between the petitioner's daughter and the said S.Ram Kumar. Out of Rs.7,00,000/- a sum of Rs.2,00,000/- was paid in cash and the balance amount of Rs.5,00,000/- was paid by way of Demand Draft. The said amount paid by way of Demand Draft was deposited in the savings bank account of the petitioner's daughter in the respondent-Bank as stated supra. However, due to the said unfortunate events, the petitioner's daughter suffered from mental illness. The Assistant Professor, Department of psychiatry, Government Medical College and Hospital, Chengalpet and the Medical Board of Government Medical College and Hospital, Chengalpet, on examination of the petitioner's daughter also certified that she is suffering from Major Mental Illness, a major psychiatric disorder. Her condition is deteriorating day by day and she has to be given good treatment by incurring huge expenditure. The petitioner is working as a mason and therefore, he is not having much means to spend for his daughter's treatment. Consequently, the petitioner made a request to the respondent-Bank for withdrawal of the said amount lying in the account of his daughter for the above purpose. To the said request, the present impugned communication was issued by the respondent-Bank.

4. Mr.K.Govi Ganesan, learned counsel appearing for the petitioner submitted that the Mental Health Act, 1987, has been repealed and the Mental Health Care Act, 2017 has been enacted, wherein there is no such power for the District Court to appoint a guardian for the Mentally Retarded persons. He further, contended that no Local level committee has been set up so far, as provided under the Mental Retardation and Multiple Disabilities Act, 1999. Therefore, the petitioner is not in a position to provide those certificates as sought for by the respondent-Bank.

5. On the other hand, the learned counsel for the respondent submitted that the interest of the respondent-Bank will have to be protected by the petitioner in the event of any claim by the daughter in future. Thus, she submitted that the interest of the Bank should be safeguarded while permitting the petitioner to withdraw the said amount.

6. Heard both sides.

7. It is seen from the facts narrated above that the petitioner's daughter, who got married, unfortunately, was separated from her husband in pursuant to the divorce decree granted by the Family Court, Chengalpet, of course with the consent of both parties. May be, because of such trauma, the petitioner's daughter is suffering with severe mental illness, which is evident from the certificate issued by the Government Medical College and Hospital, Chengalpet and the Medical Board of Government Medical College and Hospital, Chengalpet, certifying that the petitioner's daughter is suffering from "Bipolar Affective Disorder- a major psychiatric disorder".

8. Needless to say that the petitioner, being the father of such unfortunate daughter, who is suffering with such mental illness, is duty bound to take care of her by giving appropriate medical treatment. Being a mason, the petitioner certainly is not in a position to meet the medical expenses, unless the amount, which is lying in the account of her daughter is permitted to be utilized by the petitioner. At the same time, as it is apprehended by the respondent-Bank that in case of any future litigation, the interest of the bank has to be safeguarded, the learned counsel for the petitioner submitted that Indemnity Bond will be executed by the petitioner in favour of the respondent bank. Taking into consideration of the above facts and circumstances, I am of the view that the respondent-Bank can permit the petitioner to withdraw the amount lying in the Savings Bank account of her daughter in Account No.6610965554 after obtaining necessary Indemnity Bond from the petitioner.

9. Accordingly, this writ petition is allowed and the respondent-Bank is directed to permit the petitioner to withdraw the amount lying in the Savings Bank Account of his daughter bearing Account No.6610965554, after obtaining necessary Indemnity Bond from the petitioner. The respondent-Bank is directed to comply with this order within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

sni/mk

To

The Branch Manager,
Indian Bank, Thirukalukundram Branch,
89, Big Street, Thirukalukundram Via,
Kanchipuram District, Pin Code-603109.

+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No.13110

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CS/15/02/2019



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