

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.Nos.3164 & 3174 of 2019
and
C.M.P.Nos.20002 & 20050 of 2019

The Assistant Provident Fund Commissioner (Compliance)
Employees' Provident Fund Organisation
Sub Regional Office,
S-1, TNHB, Phase - III, Sathuvachari,
Vellore 632 009 ... Appellant in WA No.3164 of 2019

The Assistant Provident Fund Commissioner/
Recovery Officer,
...Appellant in WA No.3174 of 2019

Vs

1.M/s.Lutheran Christian Bethesda Hospital,
A Division of IELC Trust Association,
Rep. by its Administrator,
Post Box No.56, Mission Compound,
Ambur Taluk, Vellore District 635 802.

2.The Presiding Officer,
Central Government Industrial
Tribunal-cum-labour Court,
26, Haddows Road,
Sastri Bhavan, Nungambakkam,
Chennai 600 006. ...Respondents in W.A.No.3164 of 2019

M/s.IELC Trust Association
Rep. by its Administrator,
Luthran Mission Compund,
K.P.Road, Nagercoil 629 001
Kanyakumari District. ...Respondent in W.A.No.3174 of 2019

COMMON PRAYER : Writ Appeal filed under Clause 15 of the Letters
Patent against the order made in W.P.Nos.9221 & 9224 of 2019
dated 02.04.2019 on the file of the High Court of Judicature at
Madras.

Prayer in WP No.9221/2019 : Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus directing the 1st respondent to entertain the petitioner appeal challenging the order of the 2nd respondent dated 13.07.2017 in proceedings No.TB/VLR/ 10759/ENF/DIV-IV/ 2017-18/1804 and consequently to forbear the 2nd respondent from initiating any recovery proceedings in terms of its order dated 13.07.2017.

Prayer in WP No.9224 of 2019 : Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus for bearing the respondent from auctioning the petitioner's property situated at survey No.45/1, Yellagiri Hills, Tirupur Taluk in terms of Proceeding No.TB/VLR/10759/FECY/2018/5278 dated 28/11/18 and consequential proceedings No. TB/VLR/10759/RECY/240/2019/6910 dated 05.02.2019 and further direct the respondent to revoke/release the attachment of the petitioner's account numbers 2404101003025, 2404101000675 and 2404101000002 with Canara Bank, K.P.Road Branch, Nagercoil, Account Nos.7535 and 6071 of IELC Wrokers Provident Fund and Wrokers Pension Fund with Indian Bank, Womens Christian College Road, Nargercoil and Account No.1490503143 with the Central Bank of India, Kunjan Nadar PWD Road, Nagercoil.

For Appellant : Ms.V.J.Latha

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeals have been filed against the order passed by the learned Single Judge granting permission to the 1st respondent to file a review petition to review the order dated 13.07.2017 passed under Section 7-A of the Employees Provident Fund & Miscellaneous Provisions Act (for short the 'Act').

2.The said order has been passed in the Writ petition filed by the 1st respondent seeking a direction to the appellant to entertain the 1st respondent's appeal challenging the order dated 13.07.2017. Before the learned Single Judge, it was pointed out that as per the statute, only the authorities have

got power to condone the delay of 60 days and in extra-ordinary circumstances, another 60 days, totalling to 120 days under Section 7-I of the Act. Understanding the provision of law that if the appeal is filed beyond 120 days the same will not be entertained, the 1st respondent has filed Writ petition before this Court seeking a Writ of Mandamus to entertain the appeal and also seeking a prayer to forbear the appellant from auctioning the 1st respondent's property.

3. After contest, the learned Single Judge of this Court disposed of the Writ petitions with the direction to the 1st respondent to file a review petition before the appellant to review the order passed under Section 7-A of the Employees Provident Fund & Miscellaneous Provisions Act (for short the 'Act') as the learned Single Judge felt that entertaining an appeal beyond 120 days is in violation of the Act. The reason for giving such a direction has been categorically stated by the learned Single Judge in Paragraph No.3 of the order.

4. The 1st respondent church has got problems because of the factional feud between the groups resulting in non-payment of contribution and therefore, the 2nd respondent passed the order on 13.07.2017. The learned Single Judge found that there is a dispute in the church and because of that the contribution could not be paid and moreover, at present the 1st respondent is under the administration of retired Judge appointed by this Court.

5. In these circumstances for proper and effective functioning of the administration of the 1st respondent, this order is necessary. Even if review is filed, it is always open to the appellant authorities to deal with the matter as per law as there is no direction specifically given by the learned Single Judge.

6. In the result, these appeals fail and the same are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

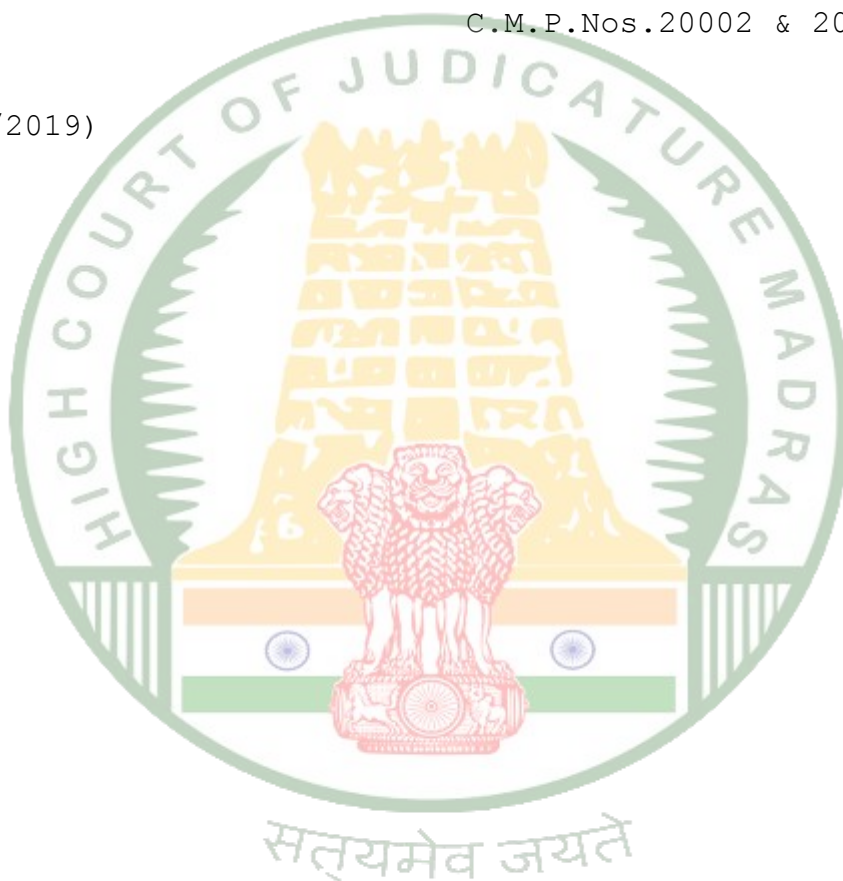
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To

1.The Presiding Officer,
Central Government Industrial
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