



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 14490 of 2017 and

W.M.P. (MD) No. 12992 of 2018

S. Jayaseelan Solomon

... Petitioner

Vs.

1. The Principal Secretary,
Treasury and Accounts,
Secretariat, Fort St. George,
Chennai - 600 009.

2. The Director of Treasuries and Accounts,
Office of the Directorate,
Panagal Maligai, No.1, Jennis Road,
Saidapet, Chennai - 600 015.

3. The Divisional Joint Director of
Treasuries and Accounts,
No.1, Ground Floor, Type IV-Quarters,
BSNL Campus, Vannarpet,
Tirunelveli - 627 003.

4. The General Manager,
Nazareth Co-operative Bank,
Nazareth, Tuticorin - 628 617.

... Respondents

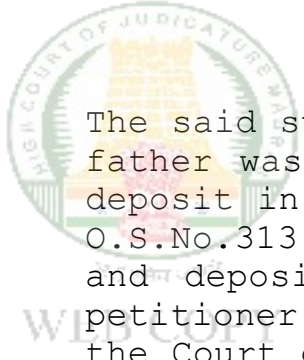
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents 1 to 3 to take positive steps to realise the amount with interest deposited in the District Munsif Court, Srivaikundam, in O.S.No.313 of 1963 and which was sent to the Government's unclaimed account 1966-1967 within the time stipulated by this Court.

For Petitioner	: Mr.M.R.Sreenivasan
For R-1 to R-3	: Mr.M.Karuppasamy,
	Government Advocate.

O R D E R

Heard the learned counsel on either side.

<https://hcservices.courts.gov.in/hcservices/> 2. It is noted that petitioner's father was defendant No.4 in O.S.No.4 of 1959 on the file of the Additional District Judge, Tirunelveli.



The said suit ended in compromise on 31.08.1960. The petitioner's father was entitled to a sum of Rs.1,374.39/- which was lying as deposit in Nazareth Co-operative Bank Limited. The said Bank filed O.S.No.313 of 1963 before the District Munsif Court, Srivaikundam and deposited the said amount in the Court deposit. The Writ petitioner's father was entitled to withdraw the said amount from the Court deposit. He did not do so. He passed away on 08.12.2003. Since nobody made any claim on the said deposit amount, the learned District Munsif, Srivaikundam, lapsed the said amount to Government account. The petitioner who is the son of Late.Swamidossan Thangaiyah has been moving heaven and earth for getting back the said amount. Since no positive response was forthcoming, this Writ petition came to be filed.

3. The third respondent has filed a detailed counter affidavit. In paragraph No.7 of the counter affidavit, the third respondent has stated that the said deposit amount was lapsed and remitted to the Government account vide letter in R.No.276/2015 dated 09.04.2015. The third respondent has quoted the provisions of the Treasury Code to contend that once the deposit amount has lapsed, they can be repaid if the claim has been made within a period of six years from the date of lapse. Even according to the third respondent, the lapse took place only in the year 2015. Therefore, the petitioner's claim is within the period of six years.

4. Therefore, respondents 1 to 3 are directed to refund the amount in question to the petitioner. Since money was all along lying in the Court custody, it would not have earned any interest, unless it had been wisely put in an interest-bearing account. Therefore, the claim for payment with interest has to be negatived.

5. The Writ petition stands allowed, on these terms. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Principal Secretary,

<https://hcservices.tn.nic.in/> For a copy sent

Secretariat, Fort St. George, Chennai - 600 009.



2. The Director of Treasuries and Accounts,
Office of the Directorate,
Panagal Maligai, No.1, Jennis Road,
Saidapet, Chennai - 600 015.

3. The Divisional Joint Director of
Treasuries and Accounts,
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BSNL Campus, Vannarpet, Tirunelveli -627 003.

4. The General Manager,
Nazareth Co-operative Bank, Nazareth, Tuticorin - 628 617.

+1 CC to M/s.M.R.SREENIVASAN, Advocate (SR-59185[F] dated
05/04/2019)

pmu

W.P.(MD)No.14490 of 2017 and
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