



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2019

CORAM:

THE HONOURABLE **MR. JUSTICE M. SUNDAR**

WEB COPY

W.P. (MD)No.19489 of 2019

Jude Pledger

... Petitioner

/Vs./

The Bank Manager,
Indian Bank,
Yagappa Nagar Branch,
Thanjavur.

...Respondent

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondent to unblock petitioner's Savings Bank Account in SB A/c.434209748 and consequently permit the petitioner to operate the said Savings Bank Account on the basis of the petitioner's representation dated 02.08.2019.

For Petitioner	: Mr.M.Viji
For Respondent	: Mr.P.Madhan Alexandar for Mr.R.Pandivel Standing counsel

ORDER

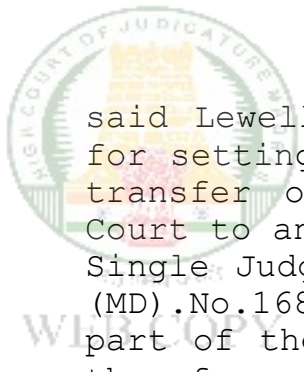
Mr.M.Viji, representing learned counsel on record for writ petitioner and Mr.P.Madhan Alexandar, learned counsel for the respondent are before this Court.

2.With consent of learned counsel on both sides, main writ petition is taken up, heard out and is being disposed of.

3.Central theme of instant writ petition is who should be the care giver or in other words, who should be the guardian for one Lewellyn Pledger. This Court is informed that he is now 59 years old, but he is mentally retarded.

4.Writ petitioner before this Court is brother of said Lewellyn Pledger.

5.There is no disputation or disagreement that the writ petitioner moved a petition *inter alia* under Sections 52 and 53 of Mental Health Act being MHOP.No.64 of 2008 and vide an *ex-parte* order dated 13.11.2008, writ petitioner was appointed as guardian of



said Lewellyn Pleadger. Thereafter, siblings moved an application for setting aside the ex-parte order and there was also a prayer of transfer of the Mental Health Original Petition (MHOP) from one Court to another. This matter travelled to this Court and a Hon'ble Single Judge of this Court vide order dated 30.06.2017 in Tr.C.M.P (MD).No.168 of 2017 (page No.15 of the typed set of papers forming part of the case file) passed a consent order, wherein and whereby the aforesaid ex-parte order dated 13.11.2008 was set aside and MHOP was transferred to the file of II Additional District Court, Thanjavur, for being tried in accordance with law.

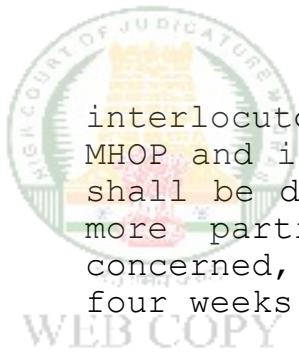
6.Aforesaid order made by a Hon'ble Single Judge of this court reads as follows:

'After arguing for some time, Mr.P.Vadivel, learned counsel for the first respondent has no objection in withdrawing I.A.No.121 of 2013 and allowing the same, setting aside the ex-parte order passed in M.H.O.P.NO.64 of 2008. Accordingly, I.A.No.121 of 2013 is allowed and the ex-parte order, dated 13.11.2008 in M.H.O.P.No.64 of 2008 is set aside. The said M.H.O.P.No.64 of 2008 is restored to file and it is transferred to the file of II Additional District Court, Thanjavur to be tried in accordance with law. The compromise that is said to have been recorded in M.H.O.P.No.64 of 2008 shall also stand rejected. No costs.'

7.In the aforesaid backdrop, it is submitted by learned counsel for Bank that the siblings, namely Kenneth Pledger and Jeffery Pledger sent communications, dated 23.07.2017 and 20.10.2017 respectively to the bank *inter alia* pointing out that the writ petitioner's savings bank account maintained in the respondent bank in which compassionate pension of Southern Railway in which writ petitioner's father J.R.Pledger served is being credited should not be operated by the writ petitioner alone. It is submitted by learned counsel for the respondent bank that in the light of these communications, the respondent bank has frozen the savings bank account being SB No.434209748. To be noted, sole respondent is Bank Manager of Yagappa Nagar Branch of Indian Bank at Thanjavur.

8.In these circumstances, this Court is left with the considered view that MHOP being of the year 2008, is more than a decade old and it has to be disposed of as expeditiously as possible by the competent Court, namely II Additional District Court, Thanjavur and in any event, within six months from the date of receipt of a copy of this order.

9.In the interregnum, as the interest of the mentally retarded individual, namely Lewellyn Pledger, is the central theme of this *lis*, it is open to the writ petitioner to move an



interlocutory application in the aforementioned Court in the pending MHOP and if the writ petitioner moves such an application, the same shall be disposed of on its own merits and in accordance with law, more particularly, under the Mental Health Act by the Court concerned, namely II Additional District Court, Thanjavur within four weeks from the date of filing of the interlocutory application.

10.It is submitted that in the aforesaid savings bank account, money allocated for Lewellyn Pledger as well as writ petitioner's money are lying and therefore, subject to orders of the competent Court, it is open to the respondent Bank to permit the writ petitioner to withdraw money to the extent which is not earmarked for Lewellyn Pledger.

11.Instant writ petition is disposed of with the aforesaid set of directions. No costs.

Sd/-
Assistant Registrar(Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

rmk

To

THE II ADDITIONAL DISTRICT JUDGE,
THANJAVUR.

+1 CC to M/s.R.PANDIVEL, Advocate (SR-87159[F] dated 17/09/2019)

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-87321[F] dated 18/09/2019)

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JM/14.10.2019/3P/4C