BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A(MD)NO.1601 OF 2016
and
C.M.P(MD)Nos.5971 and 5972 of 2016

Ramanathapuram District Sarvodya Sangam,
66, Kanthadai Street,
Srivilliputhur,
Virudhunagar District,
represented by its Secretary. :Writ Petitioner/Appellant

.vs.

1.The Life Insurance Corporation of India,
Madurai Division, P andG.S.Unit,
Jeevan Prakash, Bridge Station Road,
Sellur, Madurai - 625 002.
represented by its Branch Manager.

2.T.Rathinam(died)

3.S.Gurusamy(died)

4.S.P.Velu

5.M.Paramasivam

6.S.P.Muniyandi(died)

7.S.Ananda Sayanam

8.K.Subramanian

9.K.Ponnuchamy(died)
10.M.Narayanan

11.R.Srinivasan

12.P.Pitchai(died)

13.K.Raju

14.M.Velammal

15.P.Muthulakshmi

16.R.Susila

17.H.Lakshmi

18.G.Padmavathi

19.G.Sethuraman

20.P.Seethalakshmi

(Respondents 14 and 15 impleaded as legal heirs of the deceased respondents 6 and 9, as per order of this court dated 18.12.2015 made in M.P(MD)No.1 of 2015 in W.A(MD)SR.No.26161/2011)

(R16 impleaded as Lrs of the deceased R2, as per order of this Court dated 19.6.2019, made in C.M.P(MD)No.7968/2018, dated 16.1.2016)

(Respondents 17 to 19 impleaded as Lrs of the deceased third respondent as per order of this Court dated 9.7.2019, made in C.M.P.No.5971 of 2019 in W.A.No.1601 of 2016)

(R20 impleaded as Lrs of the deceased12th respondent, as per order of this Court dated 9.1.2019 made in C.M.P. No.5972 of 2019 in W.A.No.1601 of 2016)

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.7737 of 2005, dated 15.09.2010.

Prayer in WP(MD). 7737/ 2005 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court a WRIT OF MANDAMUS directing the 1st respondent topay the amount of Rs.28,81,476/- with interest from the date of default till realisation within a time fixed by this Honourable court.

For Appellant	:Mr.T.Ravichandran
For Respondent-1	:Mr.C.Godwin
For Respondent-4	:No appearance
For Respondent-7	:No appearance

Respondents 2,3,6,9 and 12 : Died

For Respondents 5,8,10, 11,13,14,15,16 and 17 to 20 : Mr.M.Ponniah

JUDGMENT

[Judgment of the Court was made by SENTHILKUMAR RAMAMOORTHY,J.]

This Writ Appeal is directed against the order, dated 15.09.2010 in W.P(MD)No.7737 of 2005.

2.The appellant is the Writ Petitioner. In the said Writ Petition, the appellant prayed for a Writ of Mandamus to direct the first respondent/Life Insurance Corporation of India Limited (the LIC) to pay a sum of Rs.28,81,476/- with interest to the appellant herein.

3.The case of the appellant is that the appellant Sangam introduced a Superannuation Pension Scheme w.e.f. 1.4.1994 through the LIC and contributed a sum of Rs.6 lakhs as corpus amount. It is further stated that when the said superannuation scheme was in force, the appellant received a communication from the Khadi and Village Industries Commission(KVIC) for the introduction of the Employees Family Pension Scheme w.e.f. 16.11.1995 and that, therefore, the LIC Scheme was discontinued. Upon dis-continuation of the said LIC Scheme, the first respondent/LIC repaid a sum of Rs.13,42,322/- but retained a sum of Rs.28,81,476/-. The sum retained was claimed in the Writ Petition.

4.We heard the learned counsel for the appellant and the learned counsel appearing for the respondents as aforementioned.

5.According to the learned counsel for the appellant, the appellant Sangam took a superannuation policy with the first respondent in contravention of the Memorandum of Association. In particular, the learned counsel for the appellant submitted that clause 3(4) of the Memorandum of Association prohibits the distribution of profits in any manner to the members of the Sangam. Consequently, he submitted that the action of the then Office Bearers of the Association in executing the Superannuation Policy with the first respondent was ultra vires of the said Memorandum of Association. Therefore, he submitted that the amounts claimed in the Writ Petition are liable to be refunded to the Sangam.

6.In response, the learned counsel for the first respondent/LIC submitted that upon surrender of the policy, the first respondent paid a sum of Rs.13,42,322/- to the appellant Sangam in full satisfaction and discharge of all the claims and dues under the said policy. The learned counsel for the first respondent also produced the relevant documents including Office Note, dated 3.9.2003 and, more importantly, the form of discharge executed by the appellant/Sangam. In the said form of discharge, it is expressly and categorically stated that a sum of Rs.13,42,322/- is received in full satisfaction and discharge of claimant's dues and upon surrender of the policy. On the basis of the said documents, the learned counsel for the first respondent submitted that the first respondent is not liable in any manner to pay any further amount to the appellant.

7.We perused the materials and heard the oral submissions of the learned counsel appearing on either side.

8.The primary contention of the learned counsel for the appellant is that the Sangam entered into a policy in contravention of the Memorandum of Association of the Sangam and thereby caused loss to the Sangam. In light of the fact that the first respondent has paid the amounts due as per the Master Policy and received the Memorandum of Discharge from the Sangam, it is not open to the appellant/Sangam to make monetary claims against the first respondent and there is no reason to interfere with the order of the Writ Court in that regard. Nevertheless, if the appellant/Sangam intends to initiate proceedings against the then Office Bearers of the Sangam on the ground that they took the Master Policy in contravention of the Memorandum of Association, the proper course of action would be for the appellant/Sangam to initiate civil proceedings in that respect by impleading the necessary erstwhile Office Bearers of the Sangam.

9.Consequently, the Writ Appeal is liable to be and is hereby dismissed by granting liberty to the appellant-Sangam to initiate appropriate legal proceedings in respect of the alleged financial loss that was caused to the appellant/Sangam by the action of its former office bearers. No costs. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The Branch Manager.
Life Insurance Corporation of India,
Madurai Division, P and G.S.Unit,
Jeevan Prakash, Bridge Station Road,
Sellur, Madurai – 625 002.

+1 CC to M/s.T.RAVICHANDRAN, Advocate (SR-80908[F] dated 09/08/2019

+1 CC to M/s.M.PONNIAH, Advocate (SR-80867[F] dated 09/08/2019)

+1 CC to M/s.C.GODWIN, Advocate (SR-80932[F] dated 09/08/2019)

JUDGMENT MADE IN
W.A(MD)NO.1601 OF 2016
and
C.M.P(MD)Nos.5971 and
5972 of 2016
09.08.2019

vsn
JMN(30.08.2019) 5P : 5C