THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

WRIT PETITION No.11132 of 2019

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

> "….to issue Writ of Mandamus and pass such orders directing the Respondents herein to cancel the Lien marked on the Fixed Deposits of the Petitioner and allow the Fixed Deposit to be transferred to their Sanathnagar branch for free operation of his Fixed Deposits by the Petitioner immediately as the amount of Fixed Deposits are of his hard earned money, having served the bank for about 35 years and also that the Petitioner is dependent on the interest income of the Fixed Deposits with the Respondent Bank for meeting his medical and regular family maintenance expenses."

2. Heard learned counsel for the petitioner and Sri M.Srikanth Reddy, learned Standing Counsel for the respondents Bank.

3. The case of the petitioner is that he was retired from service from the Bank's service on 30.04.2012 from the 1st respondent-State Bank of India, Hanumakonda Branch and he got retirement benefits on 02.05.2012 and the said amount was deposited with the 1st respondent Bank. When the petitioner went to the 1st respondent Bank to submit Form 15 H (Income Tax) for the year 2014, he was shocked to learn that a lien was marked on one of his fixed deposits for Rs.5,45,000/- despite the fact that he had not borrowed any money from the 1st respondent Bank either against his fixed deposits or otherwise. As such, he filed a letter, dated 08.05.2014, requesting the

1st respondent Bank to look into the matter as to why a lien was marked when he had not borrowed any money from the Bank and also requested to transfer his fixed deposits to Sanathnagar Branch, Hyderabad, for his operational convenience. The petitioner has sent a similar request letter to the 2nd respondent-Chief General Manager, Local Head Office, Koti, Hyderabad. As there was no response from the 1st and 2nd respondents, the petitioner has sent a request letter, dated 02.04.2019 to the Chairman, State Bank of India, Mumbai, to look into the matter and requested to lift the lien on his fixed deposit so that he might use the said money for his personal and family maintenance and health expenses. The petitioner has also stated in his letter to the Chairman, State Bank of India, Mumbai, that he is an Ashmatic and heart patient, having undergone by-pass surgery for coronary Artery in 2007 and he cannot travel frequently to the 1st respondent bank frequently. Aggrieved by the same, the present writ petition is filed.

4. Learned Standing Counsel filed counter-affidavit stating that the petitioner was retired on 30.04.2012 from the 1st respondent Bank and he was paid the terminal benefits. Even before his retirement, State Bank of India, Anantapur Branch, where the petitioner worked from 01.04.2003 to 31.05.2006 served the show cause notice, dated 13.03.2012, on irregularities committed by him in disbursing a house loan to Sri H.Eswarappa. He further submits that the petitioner submitted his reply, dated 24.04.2012, regretting for the lapse and

stated that he sanctioned the loan in good faith and without negligence by following all the formalities laid down. He further submits that after receiving the terminal benefits from the Bank, the petitioner on 02.05.2012 made three fixed deposits for Rs.16,00,000/- with Account No.32316902211, Rs.11,70,000/- with Account No.32316902415 and Rs.5,45,000/- with Account No.32316902573. The two fixed deposits for Rs.16,00,000/- and Rs.11,70,000/- are transferred from the 1st respondent to the State Bank of India, Sanathnagar Branch, on request of the petitioner and the petitioner has been receiving the periodical interest on the said two fixed deposits. He further states that the house loan account sanctioned by the petitioner at State Bank of India, Anantapur Branch, while he was working as PBD, Manager, Anantapur Branch, was classified as Non Performing Asset and the recovery proceedings were initiated against the borrower Sri H. Eshwarappa under SARFAESI Act, 2002, and also by filing civil suit O.S.No.349 of 2015 before the Principle Senior Civil Judge, Anantapur. He further submits that on noticing the fact that there was no construction of house even after disbursement of the housing loan to Sri H.Eshwarappa was in deviation of the instructions laid down by the Bank, the State Bank of India, Ananthapur Branch, instructed the 1st respondent Bank to put a hold for sum of Rs.5,45,000/- out of the fixed deposit amount in the name of the petitioner lying with the 1st respondent Bank. Accordingly, a hold was put on 11.05.2012 for an amount of Rs.5,45,000/- of the fixed deposit account

No.32316902573. He further submits that the recovery of proceedings against the borrower Sri H.Eshwarappa are still pending in the suit O.S.No.349 of 2015 before the Principle Senior Civil Judge, Anantapur, and posted to 05.07.2019. The fixed deposit account No.32316902573 for Rs.5,45,000/- with the 1st respondent Bank is with a maturity value of Rs.10,55,895 as on 02.05.2019. He further submits that on receiving representation by the Central Office of the Bank, the Central office addressed letters to the State Bank of India, Anathapur Branch, and to 1st respondent to look into the matter as the irregularities committed by the petitioner were at State Bank of India, Anantapur Branch. He further submits that State Bank of India, Anantapur Branch, also addressed a letter to the 1st respondent Branch on 22.04.2019 to continue the hold for the time being till a decision on the issue is taken by the controllers. The 1st respondent branch acted upon the said instructions of the State Bank of India, Anatapur Branch, in continuing the hold on the fixed deposit for the sum of Rs.5,45,000/-. The 1st respondent Bank also sent a reply dated 06.06.2019 to legal notice dated 20.05.2019.

5. It is to be seen that the though the petitioner was issued show cause notice on 13.03.2019 stating that the petitioner granted the loan to a house which was never constructed and the loanee has defaulted the loan account, for which a suit was also filed against the loanee, as on today no disciplinary proceedings nor any recovery proceedings were initiated. Further, the petitioner has sanctioned the loan for the

house which was never constructed, no disciplinary proceedings were initiated against him. When that is the case, no rule is brought to notice of the Court in favour of the respondents to withhold the fixed deposit of the petitioner or creating lien on the FDR, is without authority by law. In view of the same, the writ petition deserves to be allowed.

6. Accordingly, the writ petition is allowed. However, this order will not preclude the respondents in taking action by following due process of law. No order as to costs.

As a sequel to the disposal of this petition, miscellaneous petitions, if any, pending shall stand closed.

A. RAJASHEKER REDDY, J

17th June 2019

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