

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.3824 of 2020

and

W.M.P.No.4536 of 2020

The Commissioner
Gudalur Municipality
Gudalur - 643 211.
The Nilgiris.

.... Petitioner

vs.

- 1.The Assistant Provident Fund Commissioner-II
Employees Provident Fund Regional office
Dr.Balasundaram Road,
Coimbatore - 641 018.
- 2.The Branch Manager
State Bank of India
New Municipal Complex
Ooty Road, Gudalur - 643 211
The Nilgiris.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records in the order under Section 8-F of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 passed by the 1st respondent in No.TN/1487674/8F/CC-6/DIV-18/2020 dated 29.01.2020 and to quash the same and direct the Central Government Industrial Tribunal cum Labour Court, Chennai, to take up the waiver and stay applications filed in EPPFA and to dispose the same as expeditiously on merits.

For Petitioner : Mr.S.Sukumar
For Respondents : Mr.J.Sathyanarayana Prasad
standing counsel for R1

O R D E R

Mr.J.Sathyanarayana Prasad, learned standing counsel takes notice for the first respondent/contesting party. Since the issue involved in this case lies in a narrow compass, which can be considered and decided without issuing notice to the second respondent, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner-Municipality suffered an order dated 30.12.2019 passed under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, directing the

petitioner-Municipality to pay a sum of Rs.30,37,025/- towards the provident fund dues for the period from 05/2016 to 03/2019. Challenging the said order, the petitioner preferred a statutory appeal before the Tribunal on 10.02.2020 along with waiver and stay applications. It is not in dispute that the said waiver as well as the stay applications are pending before the Appellate Tribunal. However in the meantime, the first respondent passed the impugned order on 29.01.2020 under Section 8-F of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, which is nothing but the bank attachment proceedings for recovery of the said sum. Therefore, the present writ petition is filed challenging the said attachment proceedings.

3. Heard both sides.

4. It is seen that as against the order passed under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the petitioner has approached the Appellate Authority and filed statutory appeal within time. The petitioner has also sought for waiver of pre-deposit and interim stay of the further proceedings, during pendency of the said appeal. It is not in dispute that those applications are pending before the Tribunal for adjudication. In the meantime, the impugned bank attachment proceedings was issued.

5. In my considered view, when the appeal has been filed in time along with waiver and stay applications, it is not proper on the part of the first respondent to issue the impugned attachment proceedings without even waiting for an order to be made in the said waiver and stay applications. Therefore, this Court is of the view that the impugned attachment proceedings shall be kept in abeyance, till an order is passed by the Tribunal in the above waiver and stay applications.

6. Accordingly, this Writ petition is disposed of as follows:

(a) The concerned Industrial Tribunal-cum-Labour Court shall take up the waiver and stay applications and dispose of the same on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

(b) Till an order is passed by the Tribunal as directed supra, the impugned proceedings shall be kept in abeyance.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar

mk

To
The Assistant Provident Fund Commissioner-II
Employees Provident Fund Regional office
Dr.Balasundaram Road, Coimbatore - 641 018.

+1cc to Mr.C.Prabhakaran , Advocate SR.No. 13845

+1cc to Mr.J.Sathyanarayana , Advocate SR.No. 13542

W.P.No.3824 of 2020

A.SK(19/02/2020)



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