IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2020

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.30854 of 2015

Sri Nandhanam Educational & Social Welfare Trust
184/1, Small Bazaar Street,
Tirupattur-635 601
Vellore District
rep. by its Chairman,
P.M.N.Mohan Krishnaa ... Petitioner

Vs

1. The Reserve Bank of India,
   rep. by its General Manager,
   Banking Ombudsman,
   Fort Glacis, No.16, Rajaji Salai,
   Chennai-600 001.

2. The Manager,
   Karur Vysya Bank,
   No.2/15, Pudupettai Main Road,
   Tiruppattur-635 601.

3. The Chief Manager,
   Bank of India,
   Anna Nagar (Chennai) Branch,
   W-124, New No.41, III Avenue,
   Anna Nagar, Chennai-600 040. ... Respondents

* * *

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to make the payment of interest for the closed Fixed Deposits account as per the orders of Hon'ble High Court of Madras in W.P.No.22979 of 2014, dated 13.02.2015, at the rate of 9% till the date of transfer of funds to the Trust Account on 13.03.2015 by remitting a sum of Rs.10,16,462/- in the petitioner Trust Account in the third respondent Bank, by considering the representation submitted by the petitioner Trust dated 22.09.2015, within a time frame to be fixed by this Court.

* * *

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.C.Mohan
for M/s.King and Patridge for R1
Mr.A.V.Radhakrishnan for R2

O R D E R

This writ petition is heard through Videoconferencing, on account of the COVID-19 pandemic situation.

2. The petitioner Trust has laid this writ petition on the file of this Court praying for a Writ of Mandamus seeking a direction to the respondents to make the payment of interest for the closed Fixed Deposits account as per the orders of this Court in W.P.No.22979 of 2014, dated 13.02.2015, at the rate of 9% up till the date of transfer of funds to the Trust Account on 13.03.2015 by remitting a sum of Rs.10,16,462/- in the petitioner Trust Account in the third respondent Bank, by considering the representation submitted by the petitioner Trust dated 22.09.2015, within a time frame.

3. The petitioner is a Trust founded by one Mr.PMM.Nandagopal and after his demise, the Vice Chairman had become the Chairman of the Trust. The Founder Chairman had deposited a sum of Rs.1 Crore in five numbers of Fixed Deposits (FDs) with the second respondent - Karur Vysya Bank by transferring the money from the Trust Account in Punjab National Bank, Tirupattur. The above said amount was deposited in the second respondent Bank to meet the expenditure for repayment of loan instalments availed by the Trust for establishing educational institutions. The said FDs were made on 04.04.2012 for a period of 300 days, which matured on 29.01.2013. The rate of interest payable on the FDs was 9% per annum (p.a.). The petitioner alleges that the second respondent Bank did not transfer the money to the Trust Account after the FDs matured, in spite of the request made by the Trust. The second respondent Bank withheld the matured amount without either refunding or transferring to the Trust account. Hence, the petitioner Trust filed W.P.No.22979 of 2014 seeking a direction to the first and second respondents herein, who were the first and third respondents therein, to transfer the fund lying in five numbers of the FDs in favour of the loan account of the petitioner Trust in the Bank of India, Anna Nagar Branch - the third respondent herein within a time-frame. In the said Writ petition, the second respondent herein admitted that the FDs made by the petitioner Trust matured, which was as early as on 29.01.2013, and expressed their consent for transfer of the fund lying in the FDs to the loan account of the petitioner Trust with the third respondent Bank. Based on the same, this Court had passed final orders directing the second respondent Bank to transfer

the funds, as requested by the petitioner within a period of three weeks from the date of receipt of the said order copy.

4. Pursuant to the said order, the second respondent Bank had transferred the fund lying in the FDs into the loan account of the petitioner lying with the Bank of India, Anna Nagar, Chennai-third respondent on 13.03.2015. Admittedly, the second respondent had transferred the fund invested in the FDs to the Trust account with rate of interest at 9% p.a., as agreed till the date of maturity, i.e., till 29.01.2013 and for the remaining period from 30.01.2013 to 13.03.2015, the rate of interest was calculated at 4% p.a. and thus, the money transferred with rate of interest for the said period of 773 days.

5. The case of the petitioner is that after the date of maturity of the FDs, the Bank had retained the amounts with them. Though the petitioner also had made representation for the transfer of the loan account, after the maturity, it was not considered by the second respondent Bank and the money was not transferred, as requested, and therefore, they were constrained to file the earlier writ petition. After the directions that is obtained by the petitioner, the second respondent Bank had paid the interest only at the rate of 4%, after the date of maturity, till the date of transfer of the amount. Hence, the present writ petition is filed seeking interest on the amount from 30.01.2013 to 13.03.2015 at the rate of 9% p.a., after deducting 4% already paid.

6. The second respondent Bank had stated that the founder Trustee, who was alive at the time of making the deposit died during the subsistence of the FDs. The FDs were only made for a period of 300 days starting from 04.04.2012 and ending on 29.01.2013. Admittedly, the petitioner had not requested for renewal of the FDs, which would alone enable them to enjoy the same rate of interest that was offered for FDs. Therefore, the second respondent had to treat the FDs as Overdue Deposits, for which, the rate of interest as applicable to the Saving's Bank Account being 4% on half yearly compounding basis as prevailed in the year 2012 was given to the petitioner Trust. The second respondent Bank also placed its reliance on Circular No.415/2012-INF, dated 18.09.2012,which was issued based on the Master Circular of the Reserve Bank of India, which provides for interest on Overdue Deposits in the following manner :

> "I. Payment of Interest on overdue deposits : As advised by RBI and as per our bank's Policy on Bank Deposits', when a request is made by the customer for payment of overdue deposit without renewal, the proceeds are eligible for savings bank rate

of interest from the date of original maturity to the date of payment (simple interest).

Accordingly, Branches shall first request customers to renew the overdue deposits as per norms and avail interest from the maturity date. In case the customers do not opt to renew the deposit, then interest shall be paid from the date of maturity till the date of payment (payment date excluded) at SB rate (presently 4%) on half-yearly compounding basis. .....

The policy is placed in our website. ...."

7. The second respondent also stated that as the original Founder Chairman and Trustee of the Petitioner Trust died on 24.06.2012, the Vice-Chairman was appointed as the Chairman of the Trustee vide resolution 28.06.2012 and 29.06.2012 appointing Mr.P.M.N.Mohan Krishnaa as the Authorized Signatory in respect of the petitioner Trust's Engineering, Polytechnic and School Current accounts. While so, one PN.Shankar, one of the Trustees of the petitioner Trust sent a letter dated 09.07.2012 to the second respondent mentioning that one PN.Saravana Sundar has no rights to operate any account or authorized to create any trust document as nominated trustee and a suit was also filed in O.S.No.54 of 2012 by the present Chairman of the petitioner Trust. The second respondent Bank also submitted further that there were several communications and letters from the said PN.Shankar and one Ms.N.Vijayalakshmi, etc., requesting the second respondent Bank not to allow any person to operate the accounts of the colleges and school run by the petitioner Trust. As the dispute between the Trustees were yet to be resolved, the Bank withheld the amount, till such time, it received the directions from this Court in W.P.No.22979 of 2014, and after the direction, that was issued by this Court, the maturity amount under the FDs were transferred to the third respondent Bank including 4% of interest applicable for the overdue deposit. The maturity amount was withheld by the second respondent Bank only in the above backdrop and facts and it was not deliberate.

8. Heard Mr.C.Mohan for M/s.King and Patridge, learned Counsel appearing for the Reserve Bank of India - the first respondent and Mr.A.V.Radhskrishnan, learned counsel appearing for the Karur Vysya Bank - the second respondent and perused the materials placed before this Court.

9. Admittedly, when orders were passed by this Court in W.P.No.22979 of 2014 on 13.02.2015 seeking a writ of Mandamus directing the second respondent Bank to transfer the funds to the loan account with the third respondent Bank, the petitioner had not sought for payment of interest for the overdue deposit. It is also pertinent to mention that the same set of counsels appeared for both, the petitioner and the Bank in the earlier round of litigation. In fact, the earlier order was silent about even the payment of 4% interest from the date of maturity till the date of payment. The said interest is paid by the second respondent Bank only as per the Circular of the RBI binding on them. The maturity value of the deposit as on 29.01.2013 was Rs.1,06,65,755/-. According to the petitioner, the interest payable for 773 days from 29.01.2013 to 13.03.2015 was Rs.18,29,630/-, but what was given was only Rs.8,13,168 and thus after deducting TDS, they suffered loss of interest to the tune of Rs.10,16,462/-.

10. This Court is of the view that the petitioner is not entitled to the said amount claimed from the second respondent Bank for various reasons : (i) as per the Circular No.415, dated 18.09.2012 referred to above, for the overdue deposits, the depositor is entitled only for interest at the rate applicable for a Savings Bank Account. In this case, admittedly, the petitioner had not made any request for renewal of FDs, though it had requested the Bank to transfer the amount to the loan account with the third respondent Bank ; (ii) the second respondent Bank had to withhold the account, as there were disputes among the trustees, after the death of the founder Trustee, who made the deposit; and (iii) Even in the earlier writ petition, the petitioner ought to have asked for payment of interest, which should have been decided there itself, but did not do so.

11. Though the cause of action was available to claim the interest at the earliest point of time, having not claimed the same, the petitioner is estopped from filing the second writ petition on the same cause of action. The second respondent Bank also cannot be said to have unlawfully enriched itself by withholding the petitioner's FDs amount, as it had paid the applicable rate of 4% interest from the date of maturity till the date of payment.

12. For the foregoing reasons, the petitioner is not entitled to any relief in this writ petition and the writ petition fails and the same is dismissed. There will be no orders as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

+1cc to M/s.A.V.Radhakrishnan, Advocate, in Sr no.27036

W.P.No.30854 of 2015

SSV(CO)
RV(03/09/2020)