

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.09.2020

CORAM:

THE HON'BLE MR. JUSTICE V.PARTHIBAN

WP No.11541 of 2020
and WMP No.14111 of 2020

S.Jayaraman

.. Petitioner

Vs

1. M.Sivaji Ganesan

2. The Asst. General Manager (Personal)
Human Resource Management Department,
II Floor, Reserve Bank of India,
P.B.No.40 Fort Clasis No.16,
Rajaji Salai,
Chennai – 600 001.

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the second respondent to withhold the retirement benefits which is due and payable to the first respondent.

For Petitioner : Mr.P.Dhananjayan

ORDER

This matter is taken up through Web hearing.

2. The writ petition has been filed seeking for the following prayer:

“for issuance of Writ of Mandamus, directing the second respondent to withhold the retirement benefits which is due and payable to the first respondent.”

3. The case of the petitioner is that the 1st respondent has borrowed a sum of Rs.6 lakhs in cash from him, for his personal needs and executed a demand promissory note. The 1st respondent is an employee of the 2nd respondent bank.

4. According to the petitioner, the 1st respondent did not return the loan as promised and legal notice was also issued in that regard. The petitioner on learning about the retirement of the 1st respondent from the 2nd respondent shortly, has chosen to file the writ petition seeking direction to the 2nd respondent bank to withhold the petitioner's retirement benefits, which are due and payable to him.

5. This Court is aghast as to how such writ petition was conceived in the first

place and filed before this Court. The petitioner has chosen a contrived legal route as short cut to approach this Court, seeking for issuance of a writ of mandamus, for realisation of the loan amount from the borrower when the proper course of remedy for the petitioner is to approach the civil Court, by filing a suit for recovery.

6. It is very unfortunate off late that the writ jurisdiction of this Court has been quite often abused and particularly, in seeking to issue the writ of mandamus, for all kinds of reliefs across the spectrum.

7. A writ of mandamus is a prerogative writ, originally envisaged as a constitutional relief, to be granted by the writ Court to the citizens, against the State authorities who failed to perform their statutory obligation cast upon them. But, over a period of time, the writ in the nature of mandamus, is being sought by all and sundry and for all casual requirements and for achieving personal and hidden agenda of the litigants, diluting the command of the constitutional Court and reducing the writ jurisdiction of this Court to a mere Court of disposal with stereo typed directions.

8. Moreover, this Court also finds that the trend of many litigants approaching this Court for issuance of writ of mandamus, when the proper and effective remedies are available elsewhere, but, they choose to approach the writ Court, as they probably find that the effort to get such direction from this Court is rather simple, easy and obtainable. The practice of approaching this Court for issuance of writ of mandamus for every kind of supposed grievance, is to be discouraged to save this institution from being deluged with sub standard litigations. Only if the Constitutional Courts are rid off sub standard litigations consuming its precious time, the Court would be able to spare its quality time on engaging itself in important and serious issues.

9. As far as this case on hand is concerned, a bizarre attempt has been made to convert the Constitutional Court as a Court to protect the interest of a private creditor, the petitioner herein, in a private loan transaction with the 1st respondent. What crafty way of bringing a private grievance of petitioner within the writfold? The petitioner is probably emboldened to seek this remedy before this Court, to be in tune with the times.

10. In the above circumstances, this Court was initially inclined to dismiss the

writ petition with exemplary costs, but, it refrained from doing so on the plea of the learned Advocate that only on his advice, the writ petition came to be filed. Considering the uncertainty of times, the professional advice tendered by the Advocate, though misplaced, yet understandable.

11. Therefore, the writ petition is dismissed. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

04.09.2020

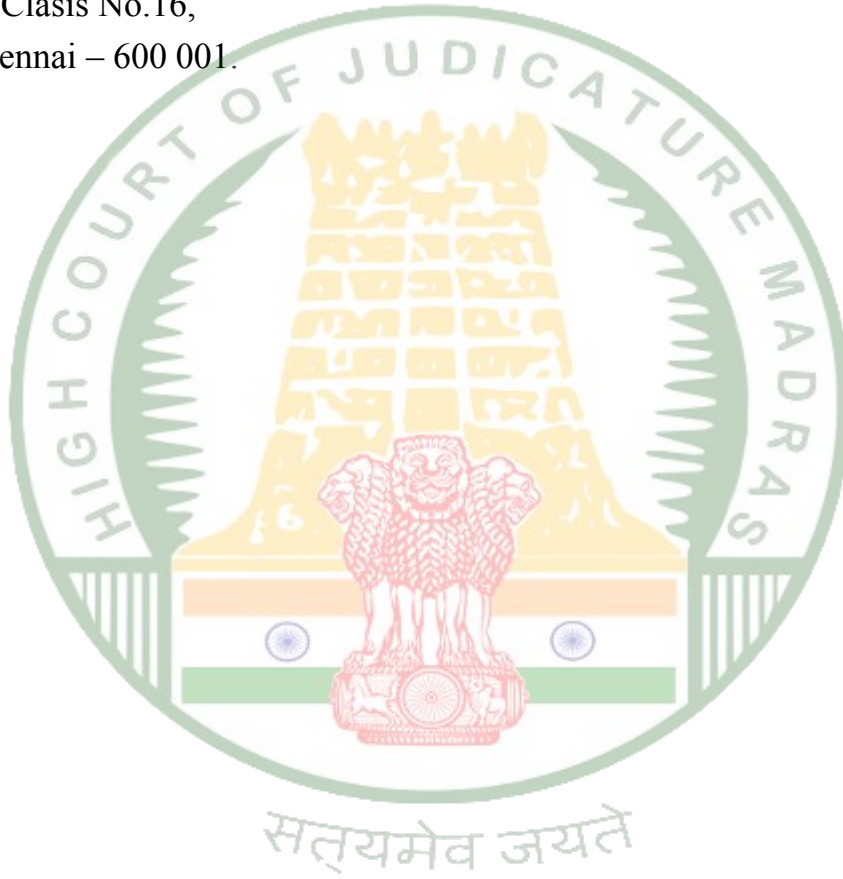
Speaking/Non-speaking order
Index: Yes/No
Internet: Yes
ars



WEB COPY

To

The Asst. General Manager (Personal)
Human Resource Management Department,
II Floor, Reserve Bank of India,
P.B.No.40 Fort Clasis No.16,
Rajaji Salai, Chennai – 600 001.



WEB COPY

W.P.No.11541 of 2020

V.PARTHIBAN, J.,

ars



WP No.11541 of 2020
and WMP No.14111 of 2020

WEB COPY

04.09.2020