



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.10.2020

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD) .No.15154 of 2020

and

W.M.P. (MD) .No.12769 of 2020

WEB COPY

M/s. The Sea Shore Hotel,
represented through its Managing Director,
M.Gopalakrishnan,
S/o.G.Mani,
No.2/12, East Car Street,
Kanyakumari,
Kanyakumari District.

... Petitioner

Vs.

1.The Assessing Officer /Authorised Officer,
EPF Organisation,
No.66, Water Tank Road,
Nagercoil,
Kanyakumari District.

2.The Assistant Provident Fund Commissioner/Recovery
Officer,
EPF Organisation,
65A, Water Tank Road,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the respondents herein to consider the petitioner's representation dated 24.10.2020 and pass appropriate orders in granting extension of time for the payment of the recovery of amount dues to the tune of Rs.9,01,880/- payable in six equal monthly instalments from November 2020 to April 2021, in pursuant to Section 8E (1) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, within a time stipulated by this Court.

For Petitioner : Mr.D.Nallathambi
For Respondents : Mr.J.S.Murali
Standing counsel



O R D E R

This writ petition has been filed challenging the warrant of attachment of movable property issued by the second respondent dated 06.10.2020, for non-payment of Employees Provident Fund amount to the tune of Rs.9,01,880/-.

2. After receipt of the warrant of attachment of movable property, the petitioner has made a representation, dated 24.10.2020, to the respondents, seeking time for payment of Rs.9,01,880/- and the last date for the attachment of movable property is today ie., on 29.10.2019.

3. When the matter is taken up for hearing today, the learned counsel appearing for the petitioner would submit that the petitioner has admitted the entire due amount and he has expressed his inability to pay the entire dues for the reason that there is no business from March 2020, due to COVID - 19 Pandemic. Thereafter, now only the cleaning process are going on to re-open the Hotel and he is facing financial crisis and he is not able to mobilise any amount and settle the dues by way of lump-sum payment. Hence, the petitioner has made a representation to the second respondent on 24.10.2020, to grant extension of time to pay a sum of Rs.9,01,880/- in six equal instalments starting from November 2020 to April 2021.

4. On the other hand, Mr.J.S.Murali, learned Standing counsel appearing for the respondents strongly opposed the petition stating that the petitioner can very well approach the Industrial Appellate Tribunal at Chennai. For the said submission, the learned counsel appearing for the petitioner would submit that the petitioner has not disputed the arrears amount as demanded by the second respondent. But, he has expressed his inability to pay the entire arrears amount as demanded by the second respondent. Hence, he requested to grant some time to pay the entire arrears amount by way of instalment. For the said submission, the learned Standing counsel would submit that this Court may direct the petitioner to pay some amount within a period of one week time.

5. Considering the submissions made by the learned counsel appearing for the petitioner and taking into consideration of the present unforeseen situation of COVID - 19 Pandemic, this Court is of the view that there is some force in the submissions made by the learned counsel for the petitioner and it would be appropriate to grant some time to the petitioner to pay the arrears of EPF amount and in case, if the Court is not inclined to grant time, certainly the respondents will initiate attachment proceedings, thereby the petitioner is not in a position re-open his Hotel business and it will be a great obstacle for him and further the petitioner is willing to pay the entire amount in a time bound manner.



6. In such circumstances, this Court directs the petitioner to pay a sum of Rs.2,71,880/- on or before 11.11.2020 and thereafter, he is directed to pay a sum of Rs.2,10,000/- each by way of three instalments ie., in the manner stated below:

- (i) the first instalment shall be paid on or before 11.12.2020,
(ii) the second instalment shall be paid on or before 11.01.2021 and
(iii) the third instalment shall be paid on or before 11.02.2021.

In the event of non-payment of any one of the instalments, the respondents are at liberty to proceed with the consequential attachment proceedings, as per the order of the second respondent, dated 06.10.2020, without any further notice.

7. With the aforesaid directions, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Assessing Officer /Authorised Officer,
EPF Organisation,
No.66, Water Tank Road,
Nagercoil,
Kanyakumari District.

2.The Assistant Provident Fund Commissioner/Recovery
Officer,
EPF Organisation,
65A, Water Tank Road,
Nagercoil, Kanyakumari District.

+1 CC to M/s.J.S. MURALI, Advocate (SR-20866[F] dated 02/11/2020)

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-20943[F] dated
03/11/2020)

W. P (MD) .No.15154 of 2020

29.10.2020

PM(CO)

NR (05/11/2020) 3P : 5C

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