

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.304 OF 2021

WITH

CIVIL APPLICATION NO.27 OF 2021

IN

WRIT PETITION NO.304 OF 2021

AXIS BANK LTD., ...Petitioner
THR. ITS BRANCH
MANAGER, SHABANA KAMAT

Versus

REGIONAL PROVIDENT FUND ...Respondents
COMMISSIONER-II, PANAJI AND 2
ORS

Mr. S.M. Singbal, Advocate for the petitioner.

Mr. C.A. Ferreira and Mr. S. Kamulkar, Advocates for the
respondent No.1.

Mr. Shivan Desai, Advocate for the respondent No.2.

CORAM: MANISH PITALE, J.

DATED: 22nd September, 2021.

ORAL ORDER:

1. By this Writ Petition, the petitioner – Bank is aggrieved by the order dated 01/06/2021 issued by the respondent no.1 i.e. the Regional Provident Fund Commissioner-II and a communication dated 13/08/2021 sent by the respondent No.1 to the petitioner – Bank.

2. The respondent No.1 has passed the order dated 01/06/2021 stating that certain amounts under the provisions of Employees Provident Funds and Miscellaneous Provisions Act,

1952 are due from the respondent No.2 and that such dues need to be remitted to the respondent No.1 from the account of the respondent No.2 held with the Petitioner- Bank.

3. By the impugned communication dated 13/08/2021, the respondent No.1 has written to the petitioner that an amount of Rs.10,00,000/- needs to be remitted from the amount which is marked as lien with a direction of Police Station at Bangalore on the basis that under Section 11 of the aforesaid Act the amount of provident fund contribution has priority.

4. The documents filed along with the petition show that account of the respondent No.2 held with the petitioner Bank has been frozen at the instance of the concerned Police Officer of the Marathahalli Police Station, Bangalore.

5. If the respondent No.1 intended to proceed for the recovery of the amount allegedly due from the respondent No.2, it has to be done strictly in accordance with the law and this Court is of the opinion that the communication sent on 13/08/2021 cannot be said to be in accordance with the law. The respondent No.1 could certainly have approached the Jurisdictional Magistrate at Bangalore for permission to recover amounts due from the respondent No.2, in view of the fact that the account of the respondent No.2 stands frozen at the instance of the aforesaid Police Station at Bangalore and details of which have been already

submitted before the Jurisdictional Magistrate. There can also be no doubt of the fact that the order dated 01/06/2021 can be implemented only in accordance with the law and not otherwise.

6. In view of the above, this Court is satisfied that the impugned communication dated 13/08/2021 deserves to be interfered with and an observation needs to be made in respect of the manner in which the order dated 01/06/2021 can be executed.

7. In view of the above, the Writ Petition is partly allowed. The impugned communication dated 13/08/2021 sent by the respondent No.1 to the Petitioner – Bank is quashed and set aside. Liberty is reserved for the respondent No.1 to approach the Jurisdictional Magistrate in Bangalore for taking necessary steps in the matter. Insofar as the impugned order dated 01/06/2021 is concerned, it is made clear that recovery in terms of the said order can be made strictly in accordance with the law.

8. Writ Petition stands disposed of.

9. Pending applications, if any, stand disposed of.

MANISH PITALE, J.

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VISHAL
BHOIR

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