



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.4944 of 2021

A.Divya

... Petitioner

Vs.

1. The Branch Manager

The Salem District Central Co-operative Society,
Gangavalli Branch,
Salem District.

2. Ramesh

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents particularly the 1st respondent to disburse the fixed deposit amount of Rs.5,00,000/- (Rupees Five Lakhs) vide deposit No.0376982 in A/C No.720376815 pending with the 1st respondent Co-operative Society.

For Petitioner : Mr.G.Mohammed Aseef

For Respondents : Mr.L.P.Shanmuga Sundaram for R1
Standing Counsel
Mr.S.Saravanan for R2

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents particularly the first respondent to disburse the fixed deposit amount of Rs.5,00,000/- (Rupees Five Lakhs) vide deposit No.0376982 in A/C No.720376815 pending with the first respondent Co-operative Society.

2.The case of the petitioner is that the marriage between the petitioner and the second respondent was solemnized on 12.09.2018. The petitioner is having savings bank account in the first respondent society and on 31.12.2018, the petitioner deposited a sum of Rs.5 Lakhs in fixed deposit in the first



respondent society and the date of maturity is 31.12.2020. Thereafter, due to matrimonial issue, the second respondent filed a suit before the Sub-Court, Athur, for declaration, declaring the fixed deposit amount in the first respondent society belongs to him and for restraining the first respondent to not to disburse the amount to the petitioner. Thereafter the petitioner made representation to the first respondent on 15.12.2020 to disburse the fixed deposit amount of Rs.5 Lakhs and since there was no response, has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that the petitioner and second respondent are husband and wife. The amount of Rs.5 Lakhs was deposited by the petitioner under fixed deposit and the maturity date is 31.12.2020. There is no interim order in the suit filed by the second respondent. In the absence of any interim order, the first respondent refusing to disburse the amount citing the reason civil suit is pending, even after maturity of the fixed deposit, is unsustainable one.

4.The learned Standing Counsel appearing for the first respondent as well as the learned counsel appearing for the second respondent would submit that for the very same issue, the second respondent has already instituted a suit in O.S.No.296 of 2020 for declaration, declaring the fixed deposit amount in the first respondent society belongs to him and for restraining the first respondent to not to disburse the amount to the petitioner. In such situation, filing writ petition under Article 226 of the Constitution of India is not sustainable one.

5.The second respondent has already instituted a suit in O.S.No.296 of 2020 for declaration, declaring the fixed deposit amount in the first respondent society belongs to him and for restraining the first respondent to not to disburse the amount to the petitioner. Hence, this Court is not inclined to grant the relief sought for in this petition.

6.The writ petition is accordingly dismissed. However, liberty is granted to the petitioner to file appropriate petition before the concerned Court to work out the remedy in the manner known to law. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Branch Manager
The Salem District Central Co-operative Society,
Gangavalli Branch,
Salem District.

+lcc to Mr.S.Saravanan, Advocate, S.R.No.69250

W.P.No.4944 of 2021

GPL (CO)
CT 28/01/2022