



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P.NO.5693 OF 2021
AND
W.M.P.NO.6317 OF 2021

State Bank of India
Mookandapalli Branch
No.310, SIPCOT Staff,
Housing Colony, Mookandapalli,
Hosur 635 126, Rep. by its Chief Manager. ...Petitioner

-VS-

- 1.Assistant PF Commissioner and Recovery Officer,
Employee Provident Fund Organization,
Regional Office, Steel Plant Road
Thalaavaipatti, Salem 636 302.
- 2.M/s.Easun Reyrolle Ltd.,
Rep. by its Resolution Professional,
Temple Tower, 6th Floor, No.672,
Anna Salai, Nandanam, Chennai 600035. ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 1st respondent and consequently quash the prohibitory order No.CB/SLM/ 16260/RECY/K2/EPFCP.3/2020 dated 15/12/2020 in so far as the petitioner bank is concerned.

For the Petitioner	:	Mr.M.L.Ganesh
For the Respondents	:	Mr.R.Thirunavukarasu, for R-1
	:	Mr.B.Dhanraj, for R-2

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The writ petition has been instituted by the State Bank against the threatened order of attachment of the salary of a bank official by the provident fund authorities.



2. The legal issue, which is common in a batch of petitions, is to be decided when the batch is taken up for hearing. As far as the present matter is concerned, the bank says that in view of the categorical assertion by the provident fund authorities at paragraph 11 of the counter-affidavit filed by them, nothing may survive of the petition. The provident fund authorities submit that their interest should be protected.

3. It appears that the principal defaulting entity, which had obtained credit facilities from the petitioning bank, is the subject-matter of insolvency proceedings before the National Company Law Tribunal and a resolution professional has been appointed over the relevant company. The resolution professional is represented and it is submitted on his behalf that in view of the provisions of the Insolvency and Bankruptcy Code, 2016, every creditor of a company which is the subject-matter of any insolvency proceedings must make its claim in accordance with the provisions of the said Code. According to the resolution professional, the provident fund authorities have not preferred any claim in respect of the concerned company. It is the further submission of the resolution professional that the main matter before the NCLT has been adjourned on the representation of the provident fund authorities that the present petition was pending in this court.

4. The provident fund authorities submit that they have priority over the assets of a defaulting entity and, to the extent that secured creditors seek to deal with such assets without reference to the provident fund authorities, the provident fund authorities have had to adopt appropriate measures.

5. Without prejudice to the rights and contentions of both the provident fund authorities and the resolution professional, W.P.No.5693 of 2021 is disposed of by recording that the provident fund authorities do not wish to attach the salary of any official of the petitioner bank. Nothing in this order will stand in the way of the provident fund authorities enforcing their rights in accordance with law as well as the resolution professional pursuing the matter before the NCLT, also in accordance with law.

W.M.P.No.6317 of 2021 is closed. There will be no order as to costs.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

sra



To:

1. The Assistant PF Commissioner and Recovery Officer,
Employee Provident Fund Organization,
Regional Office, Steel Plant Road
Thalaavaipatti, Salem 636 302.

+1cc to Mr.B.Dhanaraj, Advocate SR.No.48777

W.P.No.5693 of 2021

GMR(CO)
RVM(29/09/2021)