



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.07.2021

PRONOUNCED ON : 26.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.2833 of 2016

1.V.Jothimani

2.V.Jagadesh Chandran

... Petitioners

Vs.

M/s.Indian Bank,
Udumalpet Branch,
Palani Road,
rep. by its Chief Manager,
Coimbatore District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent to sanction, disburse the terminal benefits amount payable to Late T.Velusamy, after deducting the housing loan amount and return the title deed deposited with the respondent based on petitioners' representations dated 17.10.2011 and 25.09.2015, within a time as framed by this Court.

For Petitioner : Mr.A.Natarajan, Sr. Counsel
for Ms.A.Madhumathi

For Respondent :Mr.F.B.Benjamin George,
Standing Counsel

O R D E R

The present Writ Petition is heard through Video Conferencing on 05.07.2021.

2. Heard Mr.A.Natarajan, learned Senior counsel appearing for the petitioners and Mr.F.B.Benjamin George, learned counsel appearing on behalf of the respondent.

3. While the first petitioner is the widow of Late T.Velusamy, who had died on 14.08.1999 as a Clerk under the respondent bank, the second petitioner is his son.

4. Late T.Velusamy, had availed housing loan for a sum of



Rs.2,71,000/- while he was in service. It is stated that the respondent had forcibly collected a sum of Rs.51,050/- from the petitioners herein on the date of the death of T.Velusamy, towards the outstanding housing loan amount. Thereafter, the first petitioner herein had sent a representation on 20.10.1999, requesting the respondent bank to adjust the amount of Rs.51,050/- in the outstanding housing loan amount and disburse the terminal benefits of Late T.Velusamy.

5. In this background, on 12.02.2001, the respondent bank had filed a suit before the Sub Court, Udumalpet in O.S.No.50 of 2001, seeking for recovery of the outstanding housing loan amount from the petitioners. The suit was dismissed on 26.09.2005 and the appeal filed by the respondent bank before the learned I Additional District cum Sessions Judge, Tiruppur in A.S.No.14 of 2006 was also dismissed on 27.04.2015. No further appeal was preferred by the respondent bank. While that being so, when the petitioners had sent subsequent representations/legal notices, seeking for disbursement of the terminal benefits to them and for return of the mortgaged title deeds, there was no reply from the respondent bank, which prompted them to file the present Writ Petition.

6. The learned Senior counsel for the petitioners submitted that when the respondent had failed to succeed in the civil proceedings for recovery of the outstanding housing loan amount, there was a duty cast on them to refund the terminal benefits of their deceased employee. It is also his submission that though T.Velusamy had died way back in the year 1999, the respondent bank had, without any just cause, withheld the terminal benefits till date.

7. Though the respondent had entered appearance way back on 16.03.2016, no counter affidavit has been filed till date.

8. On the facts of the present case, this Court expresses its dissatisfaction in the manner in which the respondent bank had wantonly refrained from disbursing the terminal benefits to the legal representatives of the deceased employee, for more than 20 years. Though no counter affidavit has been filed and the respondent bank had also miserably failed in the civil suit initiated by them for recovery of the outstanding housing loan amount from the petitioners herein, the only plausible reason for withholding the retirement benefits could be connected to the outstanding housing loan amount of late T.Velusamy. Even assuming that such amounts were due, there was a duty cast on the respondent bank to adjust the outstanding amount from out of the retirement benefits and disburse the balance amount, particularly, when the petitioners have been requesting the respondent bank to make such adjustments and disburse the



balance amount of terminal benefits, together with the original sale deed. The inaction on the part of the respondent in not disbursing the retirement benefits and consequently, holding the original title deeds, would have put the petitioners to serious prejudice, since they were not only deprived of the monetary benefits, but were also incapacitated in dealing with the property for want of original title documents.

9. It is stated by the learned Senior counsel for the petitioner that a sum of Rs.51,050/- was already collected by the respondent from the petitioners towards the outstanding housing loan amount of T.Velusamy. Such a statement has also been upheld by the learned I Additional District cum Sessions Judge, Tiruppur, in the civil case that was decided against the bank. Since the respondents have failed in their civil proceedings in recovering the outstanding housing loan amount in the original suit, as well as in the appeal and have not preferred any further appeal on the same, they may not be entitled to proceed any further for recovery of the outstanding housing loan amount.

10. In this background, by taking into account the dereliction on the part of the respondent in unjustly withholding the terminal benefits due to the legal representatives of Late T.Velusamy, this Court is of the affirmed view that the petitioners would be entitled for interest on the terminal benefits payable by the respondent.

11. In the light of the above observations, there shall be a direction to the respondent to forthwith disburse the entire terminal benefits of Late T.Velusamy, in favour of the petitioners herein, within a period of twelve weeks from the date of receipt of a copy of this order together with interest on the same at the rate of 6% p.a. from 14.08.1999, i.e., the date of the death of T.Velusamy till the date of actual payment.

12. The Writ Petition stands allowed accordingly. There shall be no orders as to costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

DP



To

The Chief Manager,
Indian Bank,
Udumalpet Branch,
Palani Road,
Coimbatore District.

+1cc to Mr.A.Madhumathi, Advocate, S.R.No. 35377
+1cc to Mr.F.B.Benjamin, Advocate, S.R.No. 35890

W.P.No.2833 of 2016

RSV(CO)
GN(18/08/2021)