



W.M.P.No.4045 of 2022
and W.M.P.No.1600 of 2019

W.M.P. No.4045 of 2022
in
W.P. No.1600 of 2019

M.DHANDAPANI, J.

The present W.M.P is filed "for modification" of the order dated 16.12.2021.

2. The learned counsel for the petitioner submitted that the suit filed by the 3rd and 4th respondents claiming share in the Fixed Deposit held in the account of Ellammal, was dismissed for default. Further, he submitted that as per the records prevailing in the 2nd respondent/Bank, the petitioner was nominated as nominee by the deceased Ellammal in the year 2015 itself and the petitioner is a Class - II Legal Heir as per Hindu Law, Hence, he prays for modification of order dated 16.12.2021 in paragraph No.10.

3. Per contra, the learned counsel appearing for the respective private respondents submitted that respondents 3 and 4 are Class - I and Class- II Legal Heir respectively, and the suit filed by them before the competent Court is still pre-numbering. Hence, they vehemently opposed the



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submission made by the learned counsel for the petitioner and prays for an appropriate direction

4.From the submissions made by learned counsel on either side, this Court is of view that the deceased Ellammal died issueless and the amount lying in the Fixed Deposit can be apportioned to the Class – I Legal Heirs / Class – II Legal Heirs / Nominees by agitating this issue before the competent Civil Court. Hence, paragraph 10 of the said order dated 16.12.2021 passed by this Court shall substituted as follows :-

"10. In view of the disputed questions involved in this matter, this Court is not inclined to issue any affirmative order either in favour of the petitioner or in favour of the private respondents under Article 226 of the Constitution of India, which can be decided only by the competent civil Court. The petitioner is granted permission to file a suit before the competent Civil Court to resolve this issue. Furthermore, the succeeding party is at liberty to



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**approach the 2nd respondent/Bank in respect of their claim
in the manner known to law."**

5.In other respects, the order dated 16.12.2021 stands unaltered.

W.M.P., is ordered accordingly.

22.03.2022

Note : Registry is directed to issue fresh order copy

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vsn

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