



W.P.No.22886 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2022

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THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.22886 of 2018 and
M.P.No.26760 of 2018

K.Govindasamy

... Petitioner

Vs

- 1.The Managing Director,
Indian Overseas Bank,
Central Office,
No.762, Anna Salai,
Chennai – 600 002.
- 2.The General Manager,
Indian Overseas Bank,
Central Office, No.762, Anna Salai,
Chennai – 600 002.
- 3.The Chief Zonal Manager,
Indian Overseas Bank,
Zonal Office, 3rd Floor, Door No.763,
Anna Salai, Chennai – 600 002.
- 4.The Branch Manager,
Indian Overseas Bank,
Saligramam Branch,
Chennai – 600 093.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Mandamus, forbearing the respondents



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from recovery of educational loan amount from the monthly pension of the petitioner towards the educational loan availed by him for his son's higher education i.e. namely Bachelor of Engineering (Mechanical Engineering) and thereby direct the respondents to return the so far recovered amount since February 2018 to as on today from his Account No.067601000028667 on the file of the 4th respondent bank immediately.

For Petitioner : Mr.R.Surya Prakash

For Respondents : Mr.V.Kadhirvelu

ORDER

This petition has been for a mandamus to forbear the respondents from recovering educational loan amount from the monthly pension of the petitioner towards the educational loan availed by him for his son's higher education i.e. namely Bachelor of Engineering (Mechanical Engineering) and thereby direct the respondents to return the amount so far recovered since February 2018 to as on the date of the writ petition from his Account No.067601000028667 on the file of the 4th respondent/bank.

2.The facts on record indicates that the petitioner had taken a loan from the respondent/Bank on the verge of his retirement for a sum of



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Rs.1,95,000/-. It was to be repaid within a period of three years.

However, the petitioner defaulted.

3.It appears that the 4th respondent started to recover the amount from the petitioner's monthly pension from February 2018, as the petitioner neglected to repay the loan. It is the case of the petitioner that the recovery is contrary to Section 11 of the Indian Pension Act, 1871 and Section 60(1)(g) of the Civil Procedure Code.

4.The facts on record also indicates that an interim order dated 26.09.2018 granted by this Court. Pursuant to the said order the amount that was recovered from the petitioner's pension account was re-credited back to the petitioner account. The recovery of the amount from the pension payable to the petitioner is contrary to Section 60(1)(g) of the Civil Procedure Code. Section 60(1)(g) of the Civil Procedure Code which reads as under:-

“60.Property liable to attachment and sale in execution of decree.

(1)The following property is liable to attachment and sale in money, bank-notes, cheques, bills of exchange, hundis, promissory



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notes, Government securities bonds or other securities for money, debts, shares in a corporation and, save as hereinafter mentioned, all other saleable property, movable or immovable, belonging to the judgment-debtor, or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf.

Provided that the following particulars shall not be liable to such attachment or sale, namely:-

- (a).....
- (b)....
- (c)....
- (d)...
- (e)....
- (f)....

(g).Stipends and gratuities allowed to pensioners of the Government or of a local authority or of any other employer, or payable out of any service family pension fund notified in the Official Gazette by the Central Government or the State Government in this behalf, and political pension.”

5.Thus, the pension of the petitioner cannot be truncated.

Therefore, the petitioner is entitled for the relief as prayed for in this writ petition. However, it is left open to the respondent/bank to recover the amount from any other assets of the petitioner including immovable property which may stand in the name of the petitioner.



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6.This writ petition stands allowed with the above observations.

No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking/Non-Speaking Order
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To

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C.SARAVANAN, J.

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