



WEB COPY



W.P.No.27765 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2023

CORAM

THE HON'BLE MR. JUSTICE C. V. KARTHIKEYAN

Writ Petition No.27765 of 2022

Srimath Ramalinga Swamigal Madalayam,
No.11/4, Pattinathar Koil Street,
Thiruvotriyur, Chennai – 600 019.
Represented by its Managing Trustee
Mr.K.Jayaprakash
S/o. M.R.Kandasamy

... Petitioner

Versus

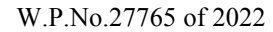
The Branch Manager,
Bank of India,
Devaraja Mudali Street,
Sowcarpet, Chennai -3.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus, directing the respondent to remove
freezing of Savings Account No.80031010000 7251 standing in the name
of Ramalinga Swamigal Madalayam.

For Petitioner : Mr.S.N.Amarnath

For Respondent : Mr.F.B.Benjamin George



The Writ Petition has been filed in the nature of a Writ of Mandamus, seeking a direction to the respondent/the Branch Manager, Bank of India, Devaraja Mudali Street, Sowcarpet, Chennai 600 003, to remove the freezing of the Savings Bank Account No.80031010000 7251 standing in the name of Ramalinga Swamigal Madalayam, having office at No.11/4, Pattinathar Koil Street, Thiruvotriyur, Chennai 600 019.

2. As on date, the said Trust is represented by its Managing Director K.Jayaprakash, son of M.R.Kandasamy. The Trust was established consequent to a Will, dated 16.09.1957, which was executed by one Perumalsamy bequeathing his lands, for the creation of the Trust with object to feed the poor. There was a stipulation that, at least 100 people must be so fed with food every day. The Will had been granted Probate by this Court in O.P.No.287/1958, by an order dated 19.02.1959.

3. The object of the Trust was to conduct pooja, Annathanam and various other devotional functions.



W.P.No.27765 of 2022

WEB COPY

4. The Trust had opened the aforementioned account in the respondent Bank on 03.07.1982. There were also rental incomes which were coming to the Trust.

5. As time went by, disputes arose among the Trustees.

6. It is stated by the learned counsel for the petitioner that one M.L.Mangesh, opened another Trust with a deceptively similar name.

7. For good measure, another individual D.Selvaboobathy also opened yet another Trust with yet another deceptively similar name.

8. There has been a confusion as to the identity of the Trust itself. But the Bank Account stood in the name of the petitioner Trust namely, Srimath Ramalinga Swamigal Madalayam.

9. Owing to the disputes among the Trustees, in the first instance, D.Selvaboobathy had addressed a letter to the Bank officials enclosing a resolution stating that he and another individual P.Balraj had been permitted to operate the Bank account. They were so operating the Bank



W.P.No.27765 of 2022

account. But, thereafter, he fell into the bad books of the other trustees and they sought to remove him from Trusteeship.

10. In this connection, an earlier Writ Petition in W.P.No.17340/2022 had been filed wherein, a learned Single Judge of this Court, by an order dated 08.07.2022 had directed the rival parties to approach the Civil Court to redress their problems.

11. Thereafter, on 05.07.2022, the present Managing Trustee, K.Jayaprakash appears to have given a letter to the respondent enclosing a resolution dated 14.05.2022 whereby, they had removed D.Selvaboobathy as a Trustee.

12. This naturally led to much confusion in the minds of the respondent/Branch Manager who did not know whether to permit operation of the account. This is all the more important because it is a Trust and being a Trust, it is answerable for the funds generated and therefore a sense of duty prevailed upon the minds of the Branch Manager.



W.P.No.27765 of 2022

WEB COPY

13. It is also seen from the counter affidavit that, as on 04.01.2023, a sum of Rs.10,15,317/- is available in the Trust Account.

14. The Branch Manager naturally had to take necessary care that the Bank is not dragged into litigation and more importantly, also ensure that the officials of the Bank are not alleged to have taken sides with any one of the disputing Trustees.

15. To project neutrality, the respondent had taken a decision to freeze the Bank Account.

16. The learned counsel for the petitioner stated that every day about 100 persons are being fed and this operation came to an entire standstill. The Trust had to borrow from outside sources to continue with the objects of the Trust. This has put them too much hardship and was the immediate cause to file the present Writ Petition.

17. It is also complained that the petitioner herein had also filed a petition under Section 156(3) of the Code of the Criminal Procedure before the Jurisdictional Magistrate Court seeking action against the said



W.P.No.27765 of 2022

D.Selvaboobathy. It is therefore very clear that the affairs of the Trust are mired with disputes.

18. The learned counsel for the respondent also raised an apprehension that there could be a possibility of maladministration of the funds of the Trust. To avoid such misappropriation or maladministration, he justified the action of the respondent to freeze the bank account.

19. Let what happened be put to an end.

20. A representation had been made across the bar that a receiver should be appointed to manage the affairs of the Trust. Without necessary inputs relating to that particular aspect, I would refrain from passing such an order.

21. It would only be appropriate that the parties approach the Civil Court and get an order to administer the Trust and if the Trustees are alleged to have indulged in acts of misappropriation or maladministration seek appointment of a receiver.



W.P.No.27765 of 2022

WEB COPY

22. For the present, the respondent may get specific undertaking from K.Jayaprakash, who had filed the present Writ Petition that for every withdrawal he does, he will be personally liable and answerable for the same.

23. Let him give an undertaking that he is doing so at his own risk and if at a later date it is found that he is unauthorized to so withdraw any amount or deposit any amount, he will be personally held liable for such amounts withdrawn by him or deposited by him.

24. Let it also be made very clear that the Branch Manager will not at any point of time be called upon to answer any official acts done with respect to the aforementioned account.

25. After getting such undertaking by K.Jayaprakash, who is the Managing Trustee and also by K.Balraj, who is the other authorized signatory, who still appears to have the confidence of K.Jayaprakash, the Branch Manager, after making necessary endorsement in the records that Bank operations are being permitted without prejudice and without any



W.P.No.27765 of 2022

liability to the Bank, may permit operation of the account by K.Jayaprakash and P.Balraj.

WEB COPY

26. If at all, there is any compliant received from any other individual or an advocate stating that these two individuals are not authorized to operate the Bank account, the Branch Manager may direct such individual to get necessary orders from a competent Court and thereafter abide by that order.

27. The Branch Manager may have this particular order as a protection for permitting operation of the account by K.Jayaprakash and P.Balraj and permit such operation and thereafter, abide by any other order passed by any other competent Court.

28. With the above directions, the Writ Petition stands disposed of.

No order as to costs.

05.01.2023s

ssi

Index : Yes/No

Internet : Yes/No



WEB COPY



W.P.No.27765 of 2022

To:

The Branch Manager,
Bank of India,
Devaraja Mudali Street,
Sowcarpet, Chennai -3.



WEB COPY



W.P.No.27765 of 2022

C. V. KARTHIKEYAN,J.

SSI

W.P.No.27765 of 2022

05.01.2023