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W.P.No.12952 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.12952 of 2017

And

W.M.P.No.13821 of 2017

S.Kamala alias Yamini

... Petitioner

Vs.

1.Assistant Provident Fund Commissioner
Employees Provident Fund Organisation
Regional Office (Chennai Region),
No.37, Royapettah High Road,
Azad Nagar, Royapettah,
Chennai – 600 014.

2.S.Kannan

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to settle the provident fund amount of the second respondent maintained in PF Account Number TN/220/65/000/0000724 to the petitioner based on petitioner's representation dated 10.05.2017.

For Petitioner : Mr.V.M.Venkatramana
For Respondents : Mr.V.Sundareswaran for R1
R2 – No Appearance



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ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the first respondent to settle the provident fund amount of the second respondent maintained in PF Account Number TN/220/65/000/0000724 to the petitioner based on petitioner's representation dated 10.05.2017.

2.The case of the petitioner is that the second respondent is the husband of the petitioner and he is the petitioner's father's sister's son and their marriage was solemnized on 15.03.1998 and out of the wedlock, they were blessed with two female children. Thereafter, there was no compatibility inbetween them and the petitioner filed H.M.O.P.No.1247 of 2014 before the Principal Family Court at Chennai seeking divorce on the ground of cruelty and also filed I.A.No.610 of 2014 seeking interim maintenance.

3.The further case of the petitioner is that the Principal Family Court vide order dated 06.08.2015, directed the second respondent to pay a sum of Rs.6,000/- per month as maintenance to the petitioner and since the second respondent did not comply with the same, the



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petitioner filed E.P.No.30 of 2016 before the Principal Family Court at Chennai seeking attachment of the salary of the second respondent and the same was ordered on 31.01.2017. Thereafter the second respondent quit the job and his full and final settlement amount of Rs.38,533/- has been deposited before the Principal Family Court at Chennai.

4.The further case of the petitioner is that thereafter the petitioner filed E.A.No.7 of 2017 in E.P.No.30 of 2016 seeking attachment of provident fund and since the first respondent is not a party in E.A.No.7 of 2017, the petitioner made representation to the first respondent seeking to disburse, the provident fund settlement due to the second respondent, to the petitioner and since there was no response has filed this writ petition.

5.The learned counsel appearing for the petitioner submitted that the the provident fund settlement due to the second respondent is with the first respondent and as per Section 10 of the Employees Provident Fund and Miscellaneous Provisions Act, no Court can attach the provident fund amount, however, this Court may issue direction to the first respondent to deposit the entire amount to the credit of



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E.P.No.30 of 2016 before the Principal Family Court at Chennai and issue direction to the Principal Family Court at Chennai to conduct adjudication and disburse the amount to the eligible person.

6.The learned counsel appearing for the first respondent submitted that if any amount is due to the second respondent that amount will be disbursed in favour of the eligible person and prayed for appropriate orders.

7.Though the name of the second respondent has been printed in the cause list, there is no representation for the second respondent. Considering the pendency of the writ petition, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

8.Admittedly, there was family dispute inbetween the petitioner and the second respondent and the the petitioner filed H.M.O.P.No.1247 of 2014 before the Principal Family Court at Chennai seeking divorce on the ground of cruelty and also filed I.A.No.610 of 2014 seeking interim maintenance. The Principal Family Court vide



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order dated 06.08.2015, directed the second respondent to pay a sum of Rs.6,000/- per month as maintenance to the petitioner and since the same was not complied with, the petitioner filed E.P.No.30 of 2016 before the Principal Family Court at Chennai seeking attachment of the salary of the second respondent and the same was ordered on 31.01.2017.

9. Thereafter the second respondent quit the job and his full and final settlement amount of Rs.38,533/- has been deposited before the Principal Family Court at Chennai. Thereafter the petitioner filed E.A.No.7 of 2017 in E.P.No.30 of 2016 seeking attachment of provident fund and since the first respondent is not a party in E.A.No.7 of 2017, the petitioner made representation to the first respondent seeking to disburse, the provident fund settlement due to the second respondent, to the petitioner and the same has not yet been considered.

10. In view of the above and considering the submission made by the learned counsel appearing for the petitioner, this Court directs the first respondent to deposit the entire provident fund amount due to the



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second respondent, after due intimation to the petitioner and the second respondent to the credit of E.P.No.30 of 2016 before the Principal Family Court at Chennai, within a period of two weeks from the date of receipt of a copy of this order. The Principal Family Court at Chennai is directed to hear and adjudicate the issue inbetween the petitioner and the second respondent and pass appropriate orders within a period of six weeks thereafter.

11.With the above observations and directions, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

18.08.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

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Employees Provident Fund Organisation
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M.DHANDAPANI,J.
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