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WMP.Nos.32638, 32641, 32644, 32645, 32646 & 32640 of 2022

in WP.No.4722 of 2016

Dr.ANITA SUMANTH, J.,

These Writ Miscellaneous Petitions are filed seeking various directions to the respondents and are dealt with by way of the present common order. This order is in furtherance of a series of directions issued by this Court in a batch of writ petitions filed by the Depositors Association of PNL Nidhi and connected matters, by orders dated 18.03.2021, in terms of which Hon'ble (Retd) Justice R.Mala was appointed as Administrator to disburse dues to the depositors as well as convey title to certain property as described in order dated 18.03.2021 to Mr.Natarajan or his nominee.

A. WMP.No.32638 of 2022

2. The learned Administrator has sought various directions and clarifications consequent upon order dated 18.03.2021 passed in WP.No.4277 of 2016 and connected matters. When the matter had come up on 21.12.2022 suggestions were sought from the learned Administrator to enable consideration of the directions in this miscellaneous petition.

3. A memo has been filed today by the Administrator setting out suggestions to enable the passing of directions. The suggestions made have been



considered carefully and the following directions are issued. The query raised by the Hon'ble Administrator along with the suggestions made are set out in italics and the direction issued, after consideration of the suggestion made, is set out thereafter, in seriatim:

(1) Joint deposits:

The material term in the fixed deposit receipt regarding repayment reads as follows:-

"the maturity value of the deposit is repayable to the first named depositor or the survivor"

During the Administrator's discussion with the claimants in respect of Joint deposits, several claimants under this category admitted to the Administrator that the deposit was made in the name of persons who are not traceable and/ or appear to be fictitious / non-existent while the second depositor is a living person and have accordingly lodged the claim in their name and claimed the refund amount in their name. In a few other cases, when the proof of the existence of the first named depositor was asked, no such proof was provided.

Hence, the Hon'ble High Court may order one of the following:

- a) Transfer to the IEPF, or*
- b) Pay to the second depositor or the legal heir of the second depositor as the case may be.*

Direction

The deposit may be paid over to the second depositor or the legal heir of the second depositor after obtaining necessary and sufficient indemnity in this regard as appropriate.



(2) In cases of a deposit made by multiple depositors and where the first named depositor has died, how is the amount to be disbursed?

(i) *Refund to be issued to the sole/first surviving joint depositor against indemnity; or*

(ii) *To divide and pay equally to the surviving joint depositors*

Direction

The second suggestion be pursued. That is, refund be issued to the surviving depositors in equal measure against sufficient indemnity.

(3) Loss of original deposit receipts

Direction

Applications for refunds where the original records are lost and thus unavailable, be processed in line with banking norms prescribed by the Reserve Bank of India. Suitable verification be effected including in the Company records. Sufficient indemnity be taken from the deposit/cheque holders concerned before processing and settling the claim.

4. Cases under the Negotiable Instrument Act

Suitable direction may be issued to Judicial Magistrate-I, Pondicherry, Additional District Magistrate-II, Pondicherry and Judicial Magistrate-I, Cuddalore to handover the original records of such NI cases to the Administrator so to enable refund of amounts as per the Order of this Hon'ble Court in WP 4722/2016.

Direction



Direction issued as sought for by the learned Administrator. Let the needful be done by the Judicial Magistrate-1, Pondicherry, Additional District Magistrate-II, Pondicherry and Judicial Magistrate-1, Cuddalore, within a period of two weeks from the date of communication of this order.

5. Safety lockers

Since the contents of the safety locker belong to the Depositors and the Company officials do not have any records of the contents, it is suggested that access be provided to the Depositors to the Lockers so that the contents can be removed by them directly without any recourse to the Administrator. However, due verification of the Locker holder will be carried out by the Administrator, after which the depositors will be provided access to the safety deposit lockers. The same may be opened by an officer appointed by this Hon'ble Court, in the presence of the authorised person of the Administrator and the identified and verified locker holders may acknowledge receipt.

Directions

- (i) Learned Administrator may ensure identification, verification and authentication of the locker holders at the first instance and obtain sufficient indemnity in this regard.
- (ii) Access to the lockers be provided in the joint presence of an officer to be appointed by the Presiding officer of Court and an officer authorised by the Learned Administrator.



- (iii) Removal of contents by the locker holder to follow without recourse to either the Learned Administrator or Court appointed officer.

6. Cases involving disputes in the Deposits

Transfer the payable amounts in respect of disputed deposits to IEPF so that legal heirs can stake claim with IEPF after settling their inter se disputes.

Direction

As per the suggestion in italics above.

7. Original deposit receipts purchased by employer from employees

Refunds will be processed on production of authenticated documents to prove the existence of employment of the original deposit holder with the claimant by way of producing payment of EPF or ESI or Gratuity or other proof of payment of statutory benefits under the existing Labour laws, and proof of valid consideration having been paid to the said employee or transfer to IEPF. Discretion may be allowed to the Administrator on a case to case basis.

Direction

As per suggestion in italics above

8. Unclaimed deposits cases

Unclaimed deposits as per company records as on 31.03.2023, shall be transferred to the Investor Education and Protection Fund ("IEPF") Authority under the provisions of Section 125 of the Companies Act, 2013, which can then be claimed by the Depositors from IEPF as per the procedures prescribed therein.

Direction

As per suggestion in italics above



4. WMP.No.32638 of 2022 is ordered in the above terms.

B. WMP.No.32641 of 2022

5. The Hon'ble Administrator prays for a direction to the PPIDFE, Special Court to hand over the records seized from PNL Nidhi Limited including computer, original receipts and all other material objects/case properties in respect of the Puducherry Main Branch to the Administrator.

6. In the course of hearing on 21.12.2022, the apprehensions that the Court felt in this regard were expressed. The Hon'ble Administrator has been assigned premises from where the present assignment is being conducted. However, there is no provision for a strong room or any other secure area in those premises. The services of watch and ward or specialised watch and ward for this purpose are also unavailable.

7. Thus and in the interest of not burdening the Administrator or her team with ensuring the security of the material objects and other assets, it was felt that such material objects/assets/other infrastructure must be retained in the premises of the Special Court itself.

8. The suggestion offered by the learned Administrator in this regard is as follows:

8. Suggestion in respect of pledged jewels cases:



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As far as pledged jewels are concerned, bank lockers or such other stringent security arrangement can be organised by the Administrator - PNL Nidhi Limited and pledged jewels in the custody of the Courts / Treasury meant can be moved and kept in the safe bank lockers, which may be operated by the officer appointed by this Hon'ble Court (under Paragraph 4 hereinabove). Processing and distribution of the jewel claim will be done by the Administrator as per the orders in WP 11857/2013, and confirmed to the officer appointed by this Hon'ble Court, following which the same shall be handed over after receiving due acknowledgment.

9. The suggestion made is that the assets may be moved and kept in safe of bank lockers to be operated by officers appointed by this Court. This would entail renting of bank lockers. Since the pledged jewels and other assets are said to be substantial, the expenditure incurred in this regard would be, commensurate to the assets, also substantial which in the opinion of this Court is unnecessary.

10. Thus the present arrangement where the valuables and assets are in the custody of the Court will continue. The Presiding Officer of the Special Court will identify a judicial officer in that Court, who will act as a Nodal Officer to liaison with the Hon'ble Administrator to enable access and movement of the assets in the custody of the Court. This arrangement will ensure maximum security as well as, this Court hopes, facilitate redemption by the claimants.

11. WMP No.32641 of 2022 is allowed.



C. WMP.No.32645 of 2022

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12. This miscellaneous petition has been filed seeking a direction to respondents 1 and 2 to comply with the directions in paragraphs 20(g) to (i) of order dated 18.03.2021 by acting as a confirming party cooperating with the conveyance of landed property and execution of sale deed in favour of S.Natarajan or his nominee including mutation of revenue records re-classification of land and issuance of patta within a time frame to be fixed by the Court.

D. WMP.No.32646 of 2022

13. In this Miscellaneous Petition, the learned Administrator has sought a direction to the Principal District Judge, Puducherry to dispose O.S.No.135 of 2016 as settled out of Court as per paragraph 20(i) of this Court's order dated 18.03.2021.

14. The two miscellaneous petitions as above relate to specific directions in regard to a parcel of land at Ariyur in Puducherry (in short, property/property in question) for a sum of Rs.38 crores. O.S.No.135 of 2016 is pending as between one New Horizon Sugar Mills Limited and the Government of Pondicherry wherein one of the subject matters, a declaration of title in regard to the property in question.



15. The consideration for the sale of the said property was fixed admittedly at a sum of Rs.38 crores and the consideration has admittedly been remitted by the purchaser. Such consideration has been transferred in full to form part of the corpus available for distribution with the Hon'ble Administrator.

16. What remains is a sum of Rs.35 lakhs alone for which cheques have been issued by the Hon'ble Administrator on behalf of the company on multiple occasions which have not been honoured and hence been rendered stale. D.D.No.341324 dated 20.12.2022 drawn in favour of Director of Agriculture Department is presented in Court today for this purpose.

17. On 21.12.2022, after hearing the parties, the following order was passed:

4.Learned counsel for the petitioner makes reference to letter dated 14.11.2022 from the Director of Agriculture and Farmers Welfare, Department of Agriculture and Farmers Welfare to the effect that approval is awaited from the competent authority in regard to the closure of the suit pending before the Principal District Judge, Pondicherry as follows:

“With all due respect, I inform you that I cannot take decision on my own, therefore I have written to competent Authority for approval vide file No.5840/Agri-Dte/Lc/2022 seeking order/direction or further course of action in the above said matter and the same has been submitted before the Government of Puducherry the I.D.Note No.16618/CS(Agri)/A2/2022 dated 14.09.2022 of Chief Secretariat (Agriculture) has submitted file to the Hon'ble Lieutenant Governor



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seeking concurrence for re-conveyance of the title as per the order dated 28.03.2021 of the Hon'ble High Court, Chennai."

Let the needful be done by the next date of hearing.'

18. My attention is drawn to an affidavit filed by the Union Territory of Puducherry before the Hon'ble Supreme Court categorically giving up this claim and undertaking to close the original suit as the settled. This finds reference in the order passed by the learned Single Judge on 18.03.2021. A Writ Appeal was filed as against the aforesaid order by the Nidhi which came to be rejected on 14.06.2022 in effect confirming the conclusions in regard to this aspect of the matter.

19. That apart, leave had been sought by the Agricultural Department to intervene in the review application before the learned single Judge in MP.Nos.18734, 18736 and 18768 of 2021 that had come to be rejected and leave refused on 06.10.2021. No appeal has been filed by the Agricultural Department as against this order.

20. With this, there could be no further claim by the Agricultural Department in regard to this issue. The attempt of the Union Territory of Puducherry at this juncture to continue the claim in this regard is thus found to be entirely misconceived and cannot be countenanced.



21. Demand Draft bearing No.341324 dated 20.12.2022 drawn in favour of Director of Agriculture Department shall be forwarded forthwith to the Director of Agriculture Department and upon receipt thereof, all necessary steps shall be taken forthwith by the respondents concerned in these writ miscellaneous petitions to withdraw O.S.No.135 of 2016.

22. In light of the discussion as above, directions as sought for in WMP No.32645 of 2011 are issued and the same is allowed. WMP No.32646 of 2022 is ordered.

E. WMP.No.32640 of 2022

23. This miscellaneous petition is for a direction to the Director, Agricultural Department and / or the competent authority to comply with the directions of this Court vide order dated 18.03.2021 and in the event of their continued failure/refusal to do so initiate proceedings for wilful disobedience of the said order. An order in this miscellaneous petition becomes unnecessary in light of the orders/directions issued in the above two Miscellaneous Petitions. Needless to state, this WMP may be revived/resurrected if necessary, at a later juncture. This WMP is dismissed, though with liberty as above.



F. WMP.No.32644 of 2022

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24. This miscellaneous petition seeks the issuance of directions regarding the tenure and terms of service of the administration and administrative assistant and suitable orders in this regard.

25. There was no specific tenure fixed and the understanding is that such tenure will extend till completion of the assignment. It is clarified that the remit of the Hon'ble Administrator will extend till such time the assignment entrusted is completed in full and report filed to such effect. Learned counsel appearing for the Hon'ble Administrator states orally, on instructions, that such remit is expected to be fulfilled prior to 31.03.2023 and this is recorded.

26. Additional honorarium is fixed at a sum of Rs 5,00,000/- (Rupees five lakhs only) payable upon completion of the assignment and filing of report, as recorded above.

27. WMP No.32644 of 2022 is ordered as above.

03.01.2023

VS



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