



CRP No.4376 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-01-2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CRP No.4376 of 2022

And

CMP No.23179 of 2022

Cognizant Technology Solutions India Private Ltd.,
No.5/535, Old Mahabalipuram Road,
Okkiyam Thoraipakkam,
Chennai – 600 097.

.. Petitioner

vs.

1.Chacko. K.K.

2.Cletus Charles

3.Ajamma Charles

.. Respondents

PRAYER : This Civil Revision Petition is filed under Article 227 of the Constitution of India against Subpoena dated 15.11.2022 issued by the Principal Family Court, Chennai pursuant to the Docket Order dated

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26.09.2022 passed in IA No.5 of 2022 in OP No.4877 of 2016 by the Principal Family Court, Chennai.

For Petitioner : Mr.S.Ravi for
M/s.Gupta and Ravi.

For Respondent-1 : Ms.Lita Srinivasan

For Respondents-2 and 3 : Mr.A.K.Sri Ram for
M/s.A.S.Kailasam and Associates.

ORDER

The present Civil Revision Petition is filed under Article 227 of the Constitution of India against Subpoena dated 15.11.2022 issued by the Principal Family Court, Chennai pursuant to the Docket Order dated 26.09.2022 passed in IA No.5 of 2022 in OP No.4877 of 2016 by the Principal Family Court, Chennai.

2. The OP No.4877 of 2016 was instituted by the first respondent, who is the husband of the deceased employee, who was an employee in the revision petitioner-Cognizant Technology Solutions India Private Ltd. The



OP was filed seeking the custody of minor boy, who is the son of the first respondent born from and out of wedlock between the first respondent and the deceased employee, who served in the revision petitioner-Company.

3. The respondents 2 and 3 are the parents of the deceased employee. After the death of the employee, the minor boy is living with his maternal grandparents / respondents 2 and 3. For long years the maternal grandparents are looking after the minor boy, who is studying in St. John School in Besant Nagar at Chennai. The boy is now studying IX Standard and now aged 14-1/2 years.

4. During the pendency of the OP filed by the first respondent seeking custody of the minor boy, the dispute aroused regarding the disbursement of the service related benefits of the deceased employee. In order to recover the service benefits of the deceased employee, the parties have initiated steps and consequently, the Principal Family Court at Chennai issued Subpoena to the revision petitioner for the purpose of settlement of



the service benefits due to the deceased employee. In this regard, the Principal Family Court at Chennai directed the revision petitioner-Company to produce the documents for passing appropriate orders.

5. The learned counsel for the petitioner made a submission that the required documents were already submitted before the Principal Family Court at Chennai and in view of the dispute between the parties, the revision petitioner-Company was not in a position to settle the service benefits due to the deceased employee for the past about 9 years. The service benefits due to the employee is not in dispute and the revision petitioner-Company states that they are not in a position to settle the service benefits due to the dispute between the husband of the deceased employee and the parents of the deceased employee under whose custody the minor boy is now residing.

6. During the course of arguments, this Court thought fit to examine the boy since he is aged 14-1/2 years and studying IX Standard in St. John School at Besant Nagar, Chennai. Accordingly, today the boy is



present before this Court. During examination, the minor boy, namely, Master David Zacharia Chacko is capable of understanding circumstances and the consequences.

7. The minor boy in clear terms said that he is happily living with his maternal grandparents and he is willing to reside in maternal grandparents' house. The minor boy says that he has no problem in talking to his father, but his educational expenses and other expenses are met out by his maternal grandparents so far and they are taking care of him with love and affection and he is living happily with the maternal grandparents. The boy further said that he is not willing to join his father and he prefers to reside in his maternal grandparents' house and continue his education at Chennai. He said further that his father so far has not paid anything to meet out his educational or other expenses.

8. When the 14-1/2 year old boy is capable of understanding the consequences and able to decide, what is good for his life, this Court is of



the opinion that the principle of 'Best Interest Theory' is to be adopted and the welfare of the minor boy is of paramount importance.

9. Therefore, there is no point in sending the boy along with the first respondent/father and within a period of 3-1/2 years, he will attain the age of majority and even now he is studying IX Standard and thus the wishes and the choice of the minor boy are to be respected.

10. As far as the service benefits due to the legal heirs of the deceased employee is concerned, the learned counsel for the revision petitioner drew the attention of this Court with reference to the eligibility of the deceased employee, which is stated in the reply given to the legal notice by the revision petitioner and the same reads as under:-

S.No .	Benefits	Settlement Amount
1.	GTLI	INR 22,50,000/-
2.	EDLI [Currently with our Vendor PNB Metlife. Upon providing legal heirship, Cognizant will give authorization]	INR 1,32,000/- [Approximately]
3.	Gratuity	INR 9,22,500/-
4.	Provident Fund/Pension	INR 14,52,030/-



S.No .	Benefits	Settlement Amount
	[To be claimed by the Legal Heirs from the PF Authorities]	[Approximately]
5.	Stocks	INR 81,81,098/-
6.	Pending Salary	INR 1,61,568/-

11. In respect of the GTLI, Gratuity, Stocks and the pending salary, the revision petitioner-Company has to settle the same to the legal heirs of the deceased employee. Further, it is not in dispute that the first respondent-husband, namely, Mr.Chacko K.K. and the minor boy, namely, Master David Zacharia Chacko are eligible for the benefits due to the deceased employee and as per law, the first respondent-husband is entitled for one-third $[1/3^{\text{rd}}]$ share and the minor boy is entitled for two-third $[2/3^{\text{rd}}]$ share. The respective shares for the first respondent and the minor boy are to be settled by the revision petitioner-Company in respect of the above 4 items viz., GTLI, Gratuity, Stocks and the pending salary directly and in respect of EDLI [Currently with the revision petitioner-Company's Vendor PNB Metlife. Upon providing legal heirship, Cognizant will give authorization and Provident Fund/Pension, the first respondent along with



the minor boy have to submit an application to the revision petitioner-Company, who in turn has to forward the same to the Competent Authority for the purpose of sanction and settlement of the said benefits. Since the parties have no dispute in respect of the service benefits to be settled and in respect of two benefits alone, the revision petitioner-Company has to submit an application to the other Authorities. There is no impediment for directing the revision petitioner-Company to settle the dues in respect of four items, mentioned above, which are to be made directly.

12. In view of the facts and circumstances, this Court is inclined to pass the following orders:-

(1) The Subpoena dated 15.11.2022 issued by the Principal Family Court, Chennai pursuant to the Docket Order dated 26.09.2022 passed in IA No.5 of 2022 in OP No.4877 of 2016 by the Principal Family Court, Chennai is set aside.

(2) The revision petitioner-Company is directed to settle 1/3rd share to the first respondent, who is the husband of the deceased employee



and 2/3rd share to the minor boy, namely, Master David Zacharia Chacko.

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(3) Regarding the minor's share, the revision petitioner-Company shall calculate the amount and deposit the same in the credit of OP No.4877 of 2016 on the file of the Principal Family Court at Chennai and the Principal Family Court, Chennai shall deposit the said amount in anyone of the Nationalised Bank in an Interest Bearing Deposit Scheme, which is to be renewed periodically till such time the minor boy attains the age of majority. After attaining the age of majority, the son of the first respondent shall withdraw the amount by filing an appropriate application before the Principal Family Court at Chennai.

(4) With reference to EDLI and Provident Fund, the first respondent shall submit an application to the revision petitioner, who in turn shall forward the same to the Competent Authority for sanctioning and to disburse the eligible amount. On sanctioning of the said amount under the EDLI Scheme and Provident Fund Scheme, the Authorities Competent shall disburse 1/3rd share of amount directly to the first respondent [husband of the deceased employee] and 2/3rd share of amount shall be deposited on the



file of the Principal Family Court at Chennai in the credit of OP No.4877 of 2016 and the Principal Family Court at Chennai shall deposit the said 2/3rd share amount in anyone of the Nationalised Bank in an Interest Bearing Deposit Scheme, which is to be renewed periodically till the minor boy attains the age of majority and on attaining the age of majority, the minor boy shall file appropriate an application for withdrawal of the said amount.

(5) The revision petitioner-Company is directed to settle the service benefits relating to GTLI, Gratuity, Stocks and pending salary in favour of the first respondent [husband of the deceased employee] and the minor boy, namely, Master David Zacharia Chacko as per the above directions within a period of two weeks from the date of receipt of a copy of this order.

(6) In respect of the abovesaid service benefits, the revision petitioner-Company is liable to pay interest at the rate of 12% per annum for the Gratuity amount and in respect of GTLI, Stocks and pending salary, the revision petitioner-Company is liable to pay interest at the rate of 7% per annum and accordingly settle the amount.



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(7) The interest for the abovesaid amounts are to be calculated on expiry of 30 days from the date of death of the deceased employee and till the date of the order passed in the present Civil Revision Petition.

(8) In the event of any difficulty or doubt arises with reference to the above directions issued by this Court, anyone of the party is at liberty to move an application for further directions or clarifications, if required.

13. With the abovesaid directions, the present Civil Revision Petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

06-01-2023

Speaking Order/Non-Speaking Order.

Neutral Citation : Yes/No.

Internet : Yes/No.

Index: Yes/No.

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To

The Principal Judge,
Principal Family Court,

11/12



Chennai.

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S.M.SUBRAMANIAM, J.

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