



W.P(MD)No.743 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.743 of 2023

P.Sivalingam

... Petitioner

Vs.

The Branch Manager,
Indian Overseas Bank,
District Court Branch,
Madurai District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the rejection letter dated 15.12.2022 sent by the respondent and quash the same and consequently direct him to allow the petitioner to have withdrawal of amount lying in the account i.e A/c.No.186704000003879 along with the interest on the strength of the order passed by the learned I Additional District Judge, Madurai in I.A.No.142 and 143 of 2022 dated 02.08.2022 as expeditiously as possible within the stipulation as prescribed by this Court.



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For Petitioner : Mr.R.Anand

For Respondent : Mr.N.Dilipkumar,
Standing Counsel.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner's mother applied to the learned I Additional District Judge, Madurai for permission to sell a property in which the writ petitioner had an undivided share. Permission was granted and the petition filed by the petitioner's mother was allowed in the following terms:-

“11.In result, the petition is allowed and the petitioner P.Revathi is permitted to sell the petition mentioned property on behalf of the minor Sivalingam born on 2.5.2004 within a period of one year from the date of this order. The petitioner is directed to deposit 1/5th of the sale consideration amount viz. Rs.2,67,300/- being the amount due to the minor Sivalingam's share, in any nationalized bank in the name of the Principal District Judge, Madurai in favour of the minor and the petitioner is permitted to withdraw the interest once in every three months from the above said deposit and utilize the amount for the minor child's welfare.



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The petitioner shall maintain accounts and produce it to the Court as and when required until the minor becomes major. Further the petitioner is directed to give a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) as contemplated under Section 34 of the Guardians and Wards Act, 1980.”

3.The petitioner has now attained majority. The mother has also been discharged from guardianship. The petitioner is entitled to the deposit amount. He, therefore, filed W.P.(MD)No.26815 of 2022. This Court vide order dated 29.11.2022 directed the bank to consider the petitioner's request. The bank informed the petitioner that approval from the Court concerned is required. Challenging the said stand, the present writ petition has been filed.

4.I cannot fault the stand taken by the respondent bank. At the same time, the petitioner's entitlement is also beyond dispute. The writ petition is therefore allowed in the following terms:-

“(a) The petitioner shall file an appropriate petition before the learned Principal District Court, Madurai to send for the petition mentioned deposit and for eventual payment out.



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(b) The Court will follow the usual procedures that is adopted in such cases. It shall be ensured that the amount is received by the petitioner within a period of four weeks after the petitioner files an appropriate petition. No costs.”

02.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 03.02.2023.



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G.R.SWAMINATHAN, J.

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