



W.P(MD)No.2716 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2716 of 2023

and

W.M.P.(MD)Nos.2470, 2471 & 2474 of 2023

H.M.Ahamed Abdul Cader

... Petitioner

Vs.

1.The General Manager,
State Bank of India,
Local Head Office,
Administrative Office,
No.16, College Lane,
Nungambakkam,
Chennai-600 006.

2.The Deputy General Manager,
State Bank of India,
South Zone,
Madhuram Complex,
No. Dr.Ambedkar Road,
Madurai-625 020.

3.The Branch Manager,
State Bank of India,
Arumuganeri Branch,
Old No.51, L/F Road,
Arumuganeri,
Thoothukudi-628 202,
Thoothukudi District.



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4.Thulir School for Special Children,
Represented by its Principal, Mrs.Z.Sithi Ramzan,
30/A1, A.K.M.Nagar, Kayalpatnam-628 204,
Thoothukudi District.

5.Thulir School for Special Children,
Represented by its Correspondent, A.Waheeda,
Door No.78/128A, Appa Paili Street,
Kayalpatnam, Thoothukudi District.
(R4 & R5 are *suo motu* impleaded vide order
dated 10.02.2023 in W.P.(MD)No.2716 of 2023)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent made in their communication dated 24.03.2021 and quash the same as non application of mind and consequently, defreeze A/c No.38238037542 in the name of the petitioner's school within a time stipulated by this Court.

For Petitioner : Mr.T.Mohan
Senior Counsel
for Mr.N.Sudharsan

For Respondents : Mr.M.Ponnaiah
Standing Counsel for R1 to R3

: no appearance for R4 & R5

ORDER

Heard the learned Senior Counsel appearing for the writ petitioner and the learned Standing Counsel appearing for the respondent bank.



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2. The petitioner herein founded the trust in the name and style “Thulir Trust”. He also inducted few more trustees. Later, two of them resigned and two more followed suit and formed a Trust in the very same name. They also sent a letter to the respondent bank for stopping the operation of the bank account. In view of the reception of the said objection, the bank by the impugned communication made it clear that they will not permit the continued operation of the bank account. That led to filing of this writ petition.

3. My attention is drawn to the relevant clauses in the trust deed. Clause 9 of the trust deed reads as follows:-

9.General Control and Power:-

Mr.M.I.Mohamed Theebi shall be trustee for his life time. He may hold office as Managing Trustee for three years from the commencement of the trust. Afterwards he may continue to hold office of managing trustees as the author decides.

Clause 21 of the trust deed reads as follows:-

21. Bank Account:

Bank account can be opened in the name of the trust in any of the Nationalised, Scheduled, Co-operative, Regional Rural Banks or other banks or Financial institutions as the Managing Trustee decide from time to time. The said account shall be operated by the Managing Trustee or any other trustee duly authorised by the Managing Trustee in writing.



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4. A reading of the aforesaid clauses in the trust deed indicate that the petitioner herein as a founding / managing trustee has the power to operate the petition mentioned bank account. Since the writ petition itself has been filed after a gap of almost two years after issuance of the impugned communication, it is disposed of in the following terms:-

(i) The bank will inform the objectors that in view of aforesaid trust deed clauses unless they obtain an order of interim injunction from the jurisdictional civil Court within two weeks from the date of communication, the petitioner herein will be allowed to operate the bank account.

(ii) If at the end of the period of two weeks, the objectors are unable to obtain any interim order in their favour from the jurisdictional civil Court, the petitioner will be permitted to operate the petition mentioned bank account.

5. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

28.02.2023

Index : Yes / No

Internet : Yes/ No

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NOTE:Issue Order Copy on 01.03.2023



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G.R.SWAMINATHAN, J.

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