



W.P.(MD)No.5231 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.10.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

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C.Jayalakshmi

... Petitioner

VS.

1.The Managing Director Cum Chief Executive Officer,
Indian Overseas Bank, 763, Mount Road,
Anna Salai, Thousand Lights,
Chennai-600 002, Tamil Nadu.

2.The Branch Manager,
Indian Overseas Bank,
Porur Branch, No.22, Trunk Road,
Mount Poonthamalle High Road, Porur, Chennai-625 016.

3.The Branch Manager,
Indian Overseas Bank,
Bye Pass Road Branch,
198, Chandragandhi Nagar, Madurai-625 010.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 2nd respondent to disburse the deposit amount with interest in Fixed Deposits Account Nos. 156604000000806 dated 01.02.2017 for Rs.2,60,000/-, Fixed Deposit No.1566040000001197, dated 27.06.2017 for Rs.3,70,000/- and Fixed



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Deposit No.156604000001443 dated 16.09.2017 Rs.9,90,000/- based upon the petitioner representation dated 29.11.2019.

For Petitioner :Mr.K.K.Kannan
For R2 and R3 :Mr.N.Dilip Kumar

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus directing the second respondent to disburse the deposit amount with interest by considering the representation made by the petitioner on 29.11.2019.

2.Heard Mr.K.K.Kannan, learned Counsel appearing on behalf the petitioner and Mr.N.Dilip Kumar, learned Counsel appearing on behalf of the respondents 2 and 3.

3.The case of the petitioner is that she was taking care of one R.Subbulakshmi and the said R.Subbulakshmi had two fixed deposits with the third respondent Bank. A joint savings bank account was operated by the said R.Subbulakshmi and the petitioner. The further case of the petitioner is that based on the request made by R.Subbulakshmi,



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the fixed deposits were closed. However, the amount was not credited to the joint savings bank account. The said R.Subbulakshmi died on 13.09.2017 and the amount, that was lying in the fixed deposits, was credited to the joint savings bank account on 15.09.2017.

4.It is stated that the petitioner invested in a fixed deposit before the second respondent by transferring the amount from the joint savings bank account under fixed deposit receipt dated 16.09.2017. The third respondent through notice dated 14.11.2019 called upon the petitioner to explain regarding the duplicate copy of the fixed deposit receipts that were submitted and that were standing in the name of R.Subbulakshmi. Thereafter, the third respondent marked a lien against the fixed deposit of the petitioner before the second respondent bank.

5.The petitioner had filed W.P.(MD)No.2820 of 2020 before this Court challenging the lien, that was marked over the fixed deposit and for cancellation of the same. This Writ Petition was withdrawn on 13.02.2020, since the petitioner was advised that she has to workout her remedy before the Banking Ombudsman. The concerned authority



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refused to entertain the complaint made by the petitioner and therefore, the petitioner had once again approached this Court for a direction to the second respondent to disburse the fixed deposit amount based on the representation made by the petitioner on 29.11.2019.

6.The petitioner had already challenged the lien, that was marked over the fixed deposit in the second respondent bank. This Writ Petition was dismissed by order dated 13.02.2020 on the ground that the petitioner had withdrawn the Writ Petition. On going through the order, there is absolutely no indication as to any liberty granted to the petitioner to approach any other authority to workout her remedy. In the instant case, the savings bank account originally stood in the name of R.Subbulakshmi. The same was converted as either or survivor account with effect from 25.01.2017 and at that point of time, the name of the petitioner was also included as a joint account holder. The said R.Subbulakshmi had a fixed deposit with the third respondent and the same originally matured in the year 2016. It was once again renewed for one more year with effect from 13.11.2016. The amount matured on 13.11.2017. It is also brought to the notice of this Court that the brother



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of R.Subbulakshmi was shown as nominee in the said fixed deposit.

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7.The respondent bank claims that R.Subbulakshmi died on 13.09.2017 and within two days, the petitioner managed to produce the copy of the fixed deposit receipts and transfer the fixed deposit amount to the joint savings bank account on 15.09.2017. Utilising this amount in the savings banks account, the petitioner once again made a fixed deposit in her name before the second respondent Bank.

8.In the mean time, the nominee, viz., the brother of R.Subbulakshmi had made a complaint. It is under these circumstances, the third respondent had marked the lien over the fixed deposit of the petitioner.

9.When the petitioner filed the earlier Writ Petition, the petitioner had specifically questioned the lien, that was marked over the fixed deposit. Hence, the petitioner ought to have prosecuted that Writ Petition. The Writ Petition was dismissed as withdrawn on 13.02.2020 and as stated supra, there is no indication that the petitioner had reserved



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any liberty to approach any other authority and seek further redressal.

On going through the records, it is seen that the petitioner had voluntarily withdrawn the Writ Petition and thereafter, seems to have approached the Banking Ombudsman. The Ombudsman had rejected the complaint given by the petitioner. Therefore, the petitioner had once again approached this Court by filing the present Writ Petition and had sought for the relief which is similar to the earlier relief, that was sought for in W.P.(MD)No.2820 of 2020.

10. In the considered view of this Court, the petitioner is barred from seeking for the same relief before this Court after having withdrawn the earlier Writ Petition without seeking for any liberty. Therefore, this Writ Petition is virtually barred by principles of *res judicata*. In view of the same, the relief as sought for by the petitioner cannot be granted by this Court and it is left open to the petitioner to workout her remedy in the manner known to law.



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WEB COPY 11. With the above observations, this Writ Petition is dismissed.

No costs.

Index : Yes / No
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N.ANAND VENKATESH, J.

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