



W.P.(MD) No.8837 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.10.2023

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD) No.8837 of 2020

Rajadurai,

... Petitioner

Vs

The Bank of India,
Rep. by its Branch Manager,
Sivagangai Branch, Sivagangai.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent bank to de-freeze the SB Account No.816010110014073 and consequently release the compensation amount deposited by the Special District Revenue Officer, Land Acquisition, Pudukottai to the respective legal heirs of deceased Gurusamy Devar, Subbiah Devar and Alagarsamy Devar within stipulated time fixed by this Court.

For Petitioner : Mr. RM.Arun Swaminathan

For Respondent : Mr.M.Senthil Kumar
Standing Counsel



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ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the respondents bank to permit the petitioner to operate the savings bank account and consequently utilise the compensation amount that has been deposited in the account.

2.The case of the petitioner is that he is maintaining a savings bank account with the respondent bank. The petitioner had obtained bank loan from the respondent bank. The savings bank account originally stood in the name of the father of the petitioner and subsequently on his demise, the petitioner being the nominee, the amount that was deposited in the savings bank account of his father got transferred to the savings bank account of the petitioner and thereby a sum of Rs.1,29,825/-, which was deposited by the Special District Revenue Officer, Land Acquisition, Pudukottai, was transferred to the savings bank account of the petitioner.

3. The grievance of the petitioner is that the respondent bank unilaterally freezed the savings bank account and thereby restrained the petitioner from operating the bank account. Aggrieved over the same,

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the present writ petition has been filed before this Court.

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4. The respondent has filed a counter affidavit and the relevant portions in the counter affidavit are extracted hereunder:

“4. I submit that the allegations contained in Paragraphs No.2 to 4 of the affidavit are all denied as incorrect and misleading. The allegation that the petitioners' land in S. No. 143/4C is a Ancestral property and that the petitioners' father and his uncles were holding a joint patta in S.No. 143/4C and that compensation of Rs. 1,89,825/- were paid towards acquisition of land comprised in S. No. 143/4C and that the compensation amount has to be distributed to the legal heirs of joint patta holders and that due to demise of his father, the account was freezed by the respondent bank and that he could not operate his father's account and could not even distribute his cousins share in the compensation and that respondent bank is entitled to hold only petitioner's share of Rs. 12,695/- towards repayment of the earlier dues and that the respondent bank does not have any right to hold compensation amount payable to othe patta holders are all denied as incorrect and misleading.



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5.1 Submit that the petitioner has filed this writ petition by suppressing the below mentioned business loan availed by him and its outstanding dues in his affidavit. The petitioner had obtained various loans from the respondent bank as mentioned below:

No	Account No	Purpose	Loan Amount	Date of NPA
01	8160722100003 82	Educational Loan	Rs.3,81,600/-	31.03.2018
02	8160722100000 87	Business Loan	Rs.25,000/-	31.03.2018
03	8160722100004 74	Educational Loan	Rs.2,14,250/-	Repayment has not yet started

6.It is submitted that the father of the petitioner, late. Thru, M.Subbaiah Thevar has further deposed before the 3(G) Enquiry that the acquired portion of the land comprised in S.No.143/4C originally belongs to himself only and that he had inadvertently gave a statement before the Authorities that his brothers are having right over the property. I submit that the Land Acquisition Officer had accepted the statement of late.M.Subbaiah Thevar and released the compensation amount only to late.M.Subbaiah Thevar. The said amount was transferred to the account of the petitioner since he is



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the nominee of Late. Subbiah Thevar.

7. It is submitted that after the demise of late. Thiru Subbaih Thevar, The District Revenue Officer, Pudukottal district has credited a sum of Rs. 1,70,4561- on 26.02.2019 and Rs.19,369/-on 27.05.2019 in its Na.Ka331/2005 to the SB account of Late. Subbiah Thevar. I submit that the said amount was transferred to the petitioner's account as the petitioner is the nominee of late. Thru. Subbain Thevar. I submit that the petitioner has not yet repaid the eatlier three loan accounts and that the respondent bank has right to exercise general lien over the petitioner's account. I submit that it is evident from the order of the D.R.O that the portion of the land acquired by the Government for expansion/laying of road is only to the share of late. Subbaih Thevar and that the compensation amount received cannot be subjected to division among the legal heirs of brothers of Late. Subbiah Thevar.”

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent bank.



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6. It is seen from the counter affidavit filed by the respondent bank that totally three loans were availed and out of that, two loans have become NPA in the year 2018. The compensation that was paid by the highways department for acquisition of land was transferred to the savings bank account of the petitioner. The respondent bank is holding this amount as a general lien towards the outstanding loan amount that is due and payable by the petitioner. Hence, the petitioner is not permitted to operate the bank account and withdraw the amount.

7. In the considered view of this Court, the respondent bank has the right to recover the amount that is due and payable by the petitioner towards the loan taken. For this purpose, the respondent bank has a general lien over the amount that was deposited in the savings bank account of the petitioner. Till the petitioner repays back the loan amount, the bank is always entitled to exercise its lien and the decision taken by the respondent bank cannot be faulted. It is left open to the petitioner to approach the respondent bank and give a proposal for repayment of the loan. As and when, the petitioner clears the loan amount, the respondent bank will permit the petitioner to operate the savings bank account.



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8. This writ petition is disposed of with the above terms. No costs.

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N.ANAND VENKATESH, J.

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