



W.P.(MD)No.16476 of 2016

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED :16.03.2023

CORAM

**THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY**

W.P.(MD)No.16476 of 2016

S.Veeraputheran

... Petitioner

Vs.

1.The General Manager,  
Canara Bank,  
Customer Service Section,  
Circle Office,  
East Veli Street,  
Madurai,  
Madurai District.

2.The Chief Manager,  
Canara Bank,  
East Masi Street,  
Madurai, Madurai District.

3.Shri Aby Construction,  
16A, Vinayaga Nagar,  
Opp.Raja Muthaiah Mandram,  
Madurai 625 020.

... Respondents



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**PRAYER :** Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned order dated 05.08.2016 on the file of the second respondent and quash the same as illegal, improper, unlawful, unconstitutional and arbitrary and consequently direct the second and third respondents to pay the maturity proceeds of the petitioner's deposits bearing Nos.

|       |              |               |            |
|-------|--------------|---------------|------------|
| 1     | KD/01/006674 | Rs.1,75,000/- | 05.03.2008 |
| 2     | FD/01/002184 | Rs.10,000/-   | 06.03.2008 |
| 3     | KD/01/006476 | Rs.1,00,000/- | 19.12.2007 |
| 4     | KD/01/004201 | Rs.16,386/-   | 11.12.2005 |
| Total |              | Rs.3,01,386/- |            |

With applicable rate of interest at periodical intervals as per the extent guidelines of the Bank in tune with RBI directives to the petitioner along with costs.

For Petitioner :Mr.R.Murugan

For Respondent :Mr.N.Ramamoorthi for R1 & R2

:Mr.S.T.Sasidharan Tamilkani for R3



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## **ORDER**

The petitioner challenges a communication dated 05.08.2016 from Canara Bank by which the request of the petitioner for payment of the maturity proceeds of four fixed deposits was rejected.

2. The petitioner states that he was a partner in M/s.Shri Aby Construction. The said firm was provided credit facilities in the form of bank guarantee limits of Rs.2,00,000/- (Rupees Two Lakhs Only) by Canara Bank on condition that 100% margin should be provided by way of fixed deposits in the bank. The admitted position is that four fixed deposits for sums of Rs.1,75,000/-, Rs.1,00,000/-, Rs.10,000/- and Rs.16,386/- were established by the petitioner in Canara Bank. These fixed deposits were for terms of about two years each. The fixed deposits were established between 11.12.2005 and 19.12.2007.

3. According to the petitioner, he submitted a representation dated 24.01.2014 to the bank and called upon the bank to pay the maturity proceeds to him. Since the bank did not respond thereto, W.P.(MD).No.



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11024 of 2016 was filed and the said writ petition was disposed of by directing the bank to consider the representation and pass a reasoned order thereon. Pursuant thereto, the impugned order dated 05.08.2016 was issued. By such impugned order, Canara Bank informed the petitioner that the maturity proceeds were credited to current account No.1009201002958 in the name of Shri Aby Construction. The petitioner was also informed that he is a partner in the said bank and that the remittance of proceeds into the said current account was based on the consent provided by the petitioner on 31.05.2010.

4. Learned counsel for the petitioner submits that the petitioner did not consent to the remittance of the maturity proceeds into the current account of the third respondent/Shri Aby Construction. Therefore, he submits that the impugned order is liable to be quashed.

5. Learned counsel for Canara Bank, on the other hand, relies upon the endorsements made on the respective fixed deposit receipts and points out that the said documents bear the signature of the petitioner and



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that the current account number is specified therein. He also relies upon paragraph 10 of the counter of the second respondent in such regard.

6. From the statements in the affidavit in support of the writ petition, it appears that these fixed deposits were established by the petitioner towards margin money for the provision of bank guarantee facilities to the third respondent. Therefore, it appears *prima facie* that there is a link between the establishment of the fixed deposit accounts by the petitioner and the credit facilities availed of by the third respondent from the bank. The bank has stated categorically that the money was remitted into the account of the third respondent. The petitioner was admittedly a partner of the third respondent previously. In these circumstances, disputed questions of fact *inter alia* with regard to whether the petitioner consented to the remittance of the maturity proceeds into the current account of the third respondent and the utilisation of the proceeds by the third respondent (in which the petitioner was a partner) would arise for consideration. The summary procedure adopted in adjudication under Article 226 of the Constitution of India is not appropriate for deciding such disputed questions



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7. Therefore, W.P.(MD).No.16476 of 2016 is disposed of by leaving it open to the petitioner to institute appropriate civil proceedings. It is open to the petitioner to rely upon relevant provisions of the Limitation Act 1963 while instituting such proceedings. However, it will be for the receiving court to take a decision as to whether the petitioner is entitled to the benefit of such provisions. There shall be no order as to costs.

**16.03.2023**

NCC :Yes/No  
Internet :Yes/No  
Index :Yes/No  
*sbm*



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**SENTHILKUMAR RAMAMOORTHY, J.**

*sbn*

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