



W.P.(MD) No.4994 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2023

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THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.4994 of 2016

1.Gomathi

2.Kasturi

3.Kamatchiammal

4.Palanivel

... Petitioners

/vs./

1.Madurai District Cooperative Bank,
through its Branch Manager,
MDCC Bank,
Periyakulam.

2.Gopal

3.Subbulakshmi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, direct the 1st respondent to disburse the F.D amount of Rs.9,10,000/- deposited in the name of S.Natarajan, with accrued interest thereon to the petitioners and the respondents 2 and 3 in equal proposition



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on the basis of the legal heir certificate dated 20.11.2015, by obtaining the indemnity bonds.

For Petitioners : Mr.R.Suriya Narayanan

For R1 : Mr.D.Shanmugaraja Sethupathy

For R2 : No appearance

ORDER

The writ petition is seeking for a Mandamus to direct the first respondent to disburse the fixed deposit amount of Rs.9,10,000/- deposited in the name of S.Natarajan, with accrued interest thereon to the petitioners and the respondents 2 and 3 in equal proposition, on the basis of the legal heir certificate dated 20.11.2015, by obtaining the indemnity bonds.

2.Heard Mr.R.Suriya Narayanan, learned counsel for the petitioners, Mr.D.Shanmugaraja Sethupathy, learned counsel for the first respondent and none appears for the second respondent.

3.Mr.R.Suriya Narayanan, learned counsel for the petitioners would submit that the petitioners and the respondents 2 and 3 are the brothers and sisters. One



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Mr.S.Natarajan, the brother of the private parties in this writ petition, had certain deposits with the first respondent herein. He had originally nominated his wife, Kaleeswari, who predeceased him, to the said account. Thereafter, he had not made any nominations and he had also died intestate on 29.06.2009.

4.It is pertinent to note that the said Natarajan did not have any children. After the death of the said Natarajan, the petitioners and the respondents 2 and 3 had filed a civil suit in O.S.No.19 of 2015 on the file of the District Munsif Court, Periyakulam, seeking to declare them as legal heirs of their deceased brother, S.Natarajan and also for mandatory injunction to direct the Tahsildar to issue the legal heir certificate in that regard. The said suit came to be decreed on 26.08.2015. Thereafter, the Tahsildar, Periyakulam had issued the legal heir certificate on 20.11.2015 in proceedings Tha.Pa.No.10392/2015/A6.

5.On receipt of the said legal heir certificate, the petitioners have approached the first respondent for release of the amounts standing in the name of their deceased brother, S.Natarajan. Since no further action has been initiated by the first respondent, the petitioners had approached this Court seeking for a



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direction to the first respondent to disburse the amount standing in the name of their deceased brother, S.Natarajan.

6.Countering his arguments, Mr.D.Shanmugaraja Sethupathy, learned counsel for the first respondent would submit that the legal heirship produced by the petitioners would not be a valid document and they ought to have produced the succession certificate issued by an appropriate Court under the Indian Succession Act, 1925. It is also contended by the learned counsel for the first respondent that the second respondent herein, who has also been issued with such a certificate, has objected to release of money belonging to S.Natarajan. The third respondent however had not made any such claim. Therefore, he would contend that the amount lying in the name of the deceased S.Natarajan could not be released to the petitioners, since there are objections.

7.The learned counsel for the first respondent would rely upon the orders of this Court in ***W.P.(MD) No.28361 of 2022 (Sugumaran and others Vs. The Branch Manager, Indian Overseas Bank, Thiruppuvanam Branch, Thiruppuvanam, Sivagangai District)*** dated 27.01.2023 and ***W.P.(MD) No.***



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28937 of 2022 (Geetha Vs. The Regional Manager, Central Cooperative Bank, Trichy Region, Trichy District and another) dated 01.02.2023 to contend that this Court has held that the legal heir certificate cannot be basis of making of such claim and it could be made only based upon the succession certificate issued by the appropriate Court.

8.I have considered the rival submissions made by the learned counsels appearing on either side.

9.In the present case, legal heir certificate had been issued by the Tahsildar based upon the judgment and decree of the competent civil Court declaring that the petitioners and the respondents 2 and 3 are the legal heirs of the deceased S.Natarajan. From the legal heir certificate issued by the Tahsildar as early as in the year 2015, this Court takes judicial note of the fact that the petitioners as well as the respondents 2 and 3 are all senior citizens. Further, it cannot be disputed by the respondents 2 and 3 that the petitioners are not the legal heirs of the deceased S.Natarajan. Their main contention is that one of the legal heirs, namely the second respondent, has raised objections for disbursal of the amount. Their



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contention that all the legal heirs together have to approach the first respondent for disbursal, in my view, may not be correct. For the best reasons known to an individual, he would have raised an objection.

10. Even though after notice, the second respondent is being represented by a counsel, he was not present in Court when the matter was taken up today. Even in the hearing on 21.01.2023 and 27.01.2023, there was no representation on behalf of the second respondent. The second respondent was the first plaintiff in the suit in O.S.No.19 of 2015, wherein the petitioners and the third respondent herein were also arrayed as plaintiffs. Hence, it could be presumed that the second respondent will not dispute the legal heir certificate issued by the Tahsildar, based upon the judgment and decree instituted by the second respondent.

11. In such circumstances, I am of the view that there should be a direction to the first respondent to proportionately disburse the amount lying in the name of the deceased S.Natarajan in $1/6^{\text{th}}$ share to each of the individuals, namely the petitioners and the respondents 2 and 3 herein. Hence, the first respondent is



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directed to disburse the amount in 1/6th share lying in deposit with them to the account of the deceased S.Natarajan, to the petitioners.

12.With the aforesaid direction, the Writ Petition is disposed of. However, there shall be no order as to costs.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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K.KUMARESH BABU, J.

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