



W.P(MD)No.28671 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28671 of 2022

K.Maruthai

... Petitioner

Vs.

1.The Zonal Manager,
Indian Bank,
Trichy.

2.The Branch Manager,
Indian Bank,
Palakarai Branch,
Trichy.

3.R.Mani @ Manikandan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to disburse the amount of Rs.1,00,000/- along with accrued interest to the petitioner which was deposited in A/c.No.940429949 vide Receipt No.0199456 by Mrs.Veerammal by consider the petitioner's representation dated 21.11.2022.

For Petitioner : Mr.K.Arunraj

For Respondents : Mr.R.Pandivel,
Standing Counsel for R1 & R2.
No appearance for R3.



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ORDER

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Heard the learned counsel for the writ petitioner and the learned standing counsel for Indian Bank. Though the third respondent has been served through Court notice and his name is printed in the cause list, he has not chosen to enter appearance.

2.The learned counsel for the writ petitioner states that his aunt namely Mrs.Veerammal passed away on 01.05.2019 and that he is entitled to the deposit amount of Rs.1,00,000/- lying in the petition mentioned account.

3.The learned standing counsel submits that since the third respondent is named as nominee, they are not in a position to disburse it to the writ petitioner.

4.It is too well settled that a nominee though entitled to receive the amount, cannot retain it for his benefit. He has to necessarily disburse it among the legal heirs of the deceased. In other words, a nominee holds the position of trustee. Though Veerammal passed as early as on 01.05.2019, the third respondent does not appear to have taken any initiative in the matter. The learned standing counsel would state that the bank also wrote to him but there



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is no response from him. Even in response to the Court notice, he has not chosen to enter appearance. It is seen that the petitioner has filed succession original petition in respect of another account of the deceased and obtained an order in his favour on 09.11.2020. Copy of the succession certificate issued by the learned District Munsif, Musiri has been enclosed in the typed set of papers. It appears that the petitioner is the only surviving legal heir of the deceased Veerammal. It is true that the subject fixed deposit amount is not figuring in the said succession original petition. It is stated by the learned counsel for the petitioner that the petitioner was not aware of the existence of the petition mentioned fixed deposit, when he filed the succession original petition.

5.Be that as it may, from the materials on record namely, the certificate issued by the Tahsildar, Trichy on 03.06.2009 as well the succession certificate issued by the jurisdictional Court, I am satisfied that the petitioner is the only legal heir of the deceased Veerammal. Since the third respondent is only a trustee and since he has not taken any step, the respondents 1 and 2 are directed to disburse the petition mentioned amount to the writ petitioner together with accrued interest.



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6.The writ petition is allowed accordingly. No costs.

24.01.2023

NCS : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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