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W.P.(MD)NO.27645 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.27645 of 2023

T.V.Alwan

... Petitioner

Vs.

The Canara Bank,
Rep. by its Senior Manager,
Grant Central Branch,
Pandiyam House,
Madurai – 625 001.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to prematurely close the FD bearing No.1013401004677/1 and credit the said amount along with the amount lying in the savings Bank Account No.1013101027806 in terms of the letter dated 30.10.2023 addressed by the petitioner to the respondent

For Petitioner : Mr.K.Govindarajan,
for Mr.R.Murali

For Respondent : Mr.N.Dilip Kumar,
Standing Counsel.

* * *

**ORDER**

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Heard the learned counsel on either side.

2.The petition-mentioned trust created Fixed Deposit with the respondent bank several years ago. It has also been maintaining savings bank account. The account has been lying dormant and non-operational. The trust was established way back in the year 1962. As many as 11 persons joined together and created “Bankpandian Family Trust”. There was change in the composition of the board of trustees over the years. Almost all the office bearers have passed away. Only two are left.

3.If a public trust becomes defunct or is proposed to be wound up, the doctrine of cy pres is invoked to utilise the property of trust for some other purpose as near as possible to the object of trust mentioned by the settlor. There is distinction between public trust and private trust. The case on hand pertains to the affairs of a private trust. This is because, the beneficiaries are ascertained individuals. The object of the trust can no longer be fulfilled. The trust funds cannot be



allowed to fall into private hands. Section 34 of the Indian Trust Act enables the trustee to apply by petition to a Principal Civil Court of original jurisdiction for direction as regards the administration of the trust property. The petitioner herein has chosen to invoke the writ jurisdiction of this Court for the reason that the respondent is a Nationalised Bank.

4.The petitioner has identified two institutions for transfer of the amount lying in the Fixed Deposit as well as Savings Bank account. The petitioner has written to the respondent bank for effecting such transfer. In matters such as this, the petitioner cannot act on his own. One will have to necessarily go by the directions of the court. That is why, the bank could not process the petitioner's request. In this background, the present writ petition came to be filed.

5.Based on the materials available on record, I am more than satisfied that the petitioner only wants to transfer the amount in question to two well known entities which are very much enjoying exemption under Section 80G of the Income Tax Act. They are charitable institutions serving



public interest. The trust amount will be used only for larger benefit and it will not enrich any individual. The respondent is therefore directed to act pursuant to the letter dated 30.10.2023 addressed by the petitioner to the respondent bank. Since the respondent will effect transfer to the accounts notified by the petitioner only pursuant to the direction of this Court, the respondent stands indemnified of any consequence. Since the petitioner is aged 87 years, as stated by him in the affidavit filed in support of this writ petition, the other formalities shall be permitted to be carried out through his son Shri.Ramesh Alwan.

6.This writ petition stands allowed. No costs.

11.12.2023

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

PMU/SKM

To :
The Canara Bank,
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Grant Central Branch,
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Madurai – 625 001.



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G.R.SWAMINATHAN,J.

PMU/SKM

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