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W.P.No.16894 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.16894 of 2022

Tamilnad Mercantile Bank Ltd.,
Represented by its Manager,
No.38, 45 feet road, Balaji nagar, Saram,
Puducherry 605 013

... Petitioner

Vs.

- 1.The Divisional Manager,
LIC of India,
Vellore Divisional Office, Jeevan Prakash,
Arcot Road,
Vellore – 632 004
- 2.The Administrative Officer,
LIC of India,
No.8, ECR Road (near Kokku Park),
Pakkamudayanpet, Lawspet,
Puducherry 605 008
- 3.The Senior Branch Manager,
LIC of India,
Lawspet Branch,
Puducherry
- 4.G.Suresh Babu

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the third respondent dated



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25.05.2022, quash the same and direct the respondents 1,2,3 to credit the surrender value of the policy bearing No.716837394 of the fourth respondent with the petitioner notwithstanding OS.No.563 of 2022 pending on the file of the Second Additional Munsif Court, Puducherry.

For Petitioner : Mr.V.Chandrasekaran

For Respondents

For R1 to 3 : Mr.S.P.Patel

For R4 : No appearance

ORDER

This writ petition has been filed challenging the order passed by the third respondent dated 25.05.2022 thereby stated that the claim of the petitioner will be processed only after court's concurrence.

2. The fourth respondent had availed term loan from the petitioner- Bank to the tune of Rs.11,25,000/- on 12.11.2021 by surrendering his life insurance policy bearing No.716837394 on condition that if the fourth respondent commits default in repayment, the petitioner can surrender the policy and realise the benefits under the policy directly. The loan amount became irregular since the fourth respondent committed default. Consequently, the loan account was



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classified as non performing asset on 12.04.2022. As per the loan agreement, the petitioner surrendered the LIC policy with respondents 1 to 3 and sought for realisation. However, it was not considered by the order impugned in this writ petition stating that 'it seems that the policy holder i.e. the fourth respondent herein has proceeded with filing of an original suit for jurisdiction not to proceed with the policy disputed herein, since LIC of India is cited as one of the defendants in the suit proposed, it is possible to proceed further only after the court's concurrence.

3. The learned counsel for the petitioner rightly pointed out that the pre suit notice was issued by the fourth respondent to the other respondents as well as the petitioner herein. On receipt of the same, the claim made by the petitioner was not considered by respondents 1 to 3 on the ground that pre suit notice was issued and as such, it is possible to proceed only after court's concurrence.

4. Though notice was served on the fourth respondent and his name is printed in the cause list, no one appeared on behalf of the fourth respondent before this Court either in person or through pleader.



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5. After issuance of notice, the fourth respondent filed suit in OS.No.563 of 2022 on the file of the II Additional District Munsif Court, Pondicherry for permanent injunction. It is now pending without any interim order. Therefore, the pendency of the suit is not an impediment for respondents 1 to 3 to process the claim made by the petitioner under LIC policy No.716837394.

6. In view of the above, respondents 1 to 3 are directed to process the claim made by the petitioner under policy No.716837394 and disburse the insured amount in favour of the petitioner within a period of four weeks from the date of receipt of copy of this order.

7. With the above direction, this writ petition stands allowed.
There shall be no order as to costs.

12.04.2024

Neutral Citation:Yes/No
Index: Yes/No
Speaking/Non-speaking order
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