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W.P.No.24522 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2024

CORAM:

THE HON'BLE MS. JUSTICE R.N. MANJULA

W.P.No.24522 of 2024 and W.M.P. Nos.26835 and 26836 of 2024

M. Leo Irudhaya Pushparaj
Ex Partner of Saint Rosary Textiles
No.17/22B, I Street
Saradhambal Nagar
Karumathampatti
Coimbatore 641 659

Petitioner

vs.

The Recovery Officer
Employees State Insurance Corporation
1897, Trichy Road
Panchdeep Bhavan
Ramanathapuram
Coimbatore 641 045

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records of the respondent for attachment of immovable property in Ref.No.56001002770000101 / RRC/CP12 dated 10.07.2024 and consequently issue the prohibitory order in Ref.No.CBE/RECY/CP-4/56-100277-0101 dated 26.07.2024 and quash the same.

For petitioner
For respondent

Mr. L. Mouli
Ms. S. Jayakumari
Standing Counsel



ORDER

This writ petition has been filed challenging the order of attachment dated 10.07.2024 passed by the respondent and the consequential prohibitory order dated 26.07.2024 passed by the respondent, in and by which, the petitioner-institution's account with Axis Bank has been frozen, as a step to recover a sum of Rs.28,67,936/- liable to be paid to the respondent by the petitioner institution.

2. The solitary ground on which this writ petition has been filed is that the recovery proceedings have been initiated without issuing proceedings under Section 45-A of the Employees State Insurance Act, 1948.

3. However, the learned Standing Counsel for the respondent submitted that proceedings under Section 45-A, *ibid.*, had already been initiated and in the said proceedings, an order also has been passed way back in the year 2008 itself and a copy of the said order was also served on the petitioner institution and hence, the rightful remedy to the petitioner institution is only by way of an appeal under Section 45-AA, *ibid.* and not by invoking Article 226 of the Constitution of India.



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4. But, the learned counsel for the petitioner institution asserts that the order that is said to have been passed in the proceedings under Section 45-A, *ibid.*, has not been served on the petitioner institution.

5. In a riposte, the learned Standing Counsel for the respondent produced before this Court a copy of the acknowledgment card evidencing serving of the order passed in the proceedings initiated under Section 45-A, *ibid.*

6. Since recovery has been initiated only after following the due procedure contemplated, this Court sees no reason to interfere with the order impugned. However, it is open to the petitioner institution to address a representation to the respondent for making payment on instalment basis and in the event of the petitioner institution addressing such a representation, it is for the respondent to consider and pass appropriate orders on the same.

With the above observations, this writ petition stands disposed of. No costs. Connected W.M.Ps. stand closed.

30.09.2024

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R.N. MANJULA, J.

cad

To:

The Recovery Officer
Employees State Insurance Corporation
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