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W.P.No.27565 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2024

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.27565 of 2024

&

W.M.P.Nos.30076 & 32424 of 2024

R.Bhuvaneshwari

.. Petitioner

Vs.

1. Chief Judicial Magistrate
Coimbatore.

2. Canara Bank (Erstwhile Syndicate Bank)
Rep. by its Authorised Officer/Chief Manager
Head Quarters Road Branch
No.5/4, 1st Floor, RVR Building
Head Quarters Road, Coimbatore 641 018.

3. Advocate Commissioner
Coimbatore.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari calling for the records in Crl.M.P.No.26968 of 2024 in Crl.M.P.No.14576 of 2023 issuing a fresh



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warrant dated 16.08.2024 by the 1st respondent and quash the same.

For the Petitioner : Mr.V.Raghavachari
Senior Counsel
For Mr.P.Gnanasekaran

For the Respondent s : Mr.M.A.Abdul Wahab
for Respondent – 2

ORDER

(Order of the Court was made
by the Hon'ble Chief Justice)

The prayer in the petition is as under:

“The petitioner seeks a writ of Certiorari calling for the records in Crl.M.P.No.26968 of 2024 in Crl.M.P.No.14576 of 2023 issuing a fresh warrant dated 16.08.2024 by the 1st respondent and quash the same.”

2. The primary ground for challenge is that the affidavit that was filed by respondent No.2 bank before respondent No.1 to seek substitution of the Advocate/Commissioner is a defective affidavit.

3. Mr.V.Raghavachari, learned Senior Counsel submitted that the affidavit is filed as “I, Canara Bank (Erstwhile Syndicate Bank)” and not



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by an individual. Learned Senior Counsel submitted that relying on such an affidavit, the order dated 16.08.2024 was passed, which reflects non-application of mind by respondent No.1, respondent No.2 as also the advocate.

4. We agree with petitioner's counsel. Therefore, we quash and set aside the docket order dated 16.08.2024.

5. Mr.M.A.Abdul Wahab, learned counsel for respondent No.2 bank states that the bank will file a fresh affidavit for substituting the Advocate/ Commissioner within one week from today under advise to petitioner's advocate. We direct respondent No.1, i.e. Chief Judicial Magistrate of Coimbatore to pass orders on the application for substituting the Advocate/ Commissioner within one week of the application being filed.

6. The writ petition is disposed of. We make it abundantly clear that we have not gone into other issues or facts raised in the petition. In view of the above, W.M.P.No.32424 of 2024 does not survive and



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disposed of. Consequently, W.M.P.No.30076 of 2024 also stand disposed of. There shall be no order as to costs.

(K.R.SHRIRAM, CJ)

(SENTHILKUMAR RAMAMOORTHY,J.)

03.10.2024

Index : Yes/No

Neutral Citation : Yes/No

Note to Office:

Issue order copy tomorrow (04.10.2024)

kpl

To

1. Chief Judicial Magistrate
Coimbatore.
2. The Authorised Officer/Chief Manager
Canara Bank (Erstwhile Syndicate Bank)
Head Quarters Road Branch
No.5/4, 1st Floor, RVR Building
Head Quarters Road, Coimbatore 641 018.



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THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY,J.

(kpl)

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03.10.2024