IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-04-2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

A No. 5655 of 2025
in
C.S. No. 186 of 2024

R.Ganapathy
S/o Late Shri. Ramamoorthy,
No.4, Muthalamman Street,
Chittalapakkam, Chennai -64.

..Applicant(s)

Vs

The Madras Purasaiwalkam Hindu Janopak
Saswatha Nidhi Ltd.
Represented by its commissioner, No.168, Vallara
Street, Purasaivakkam, Chennai 84.

..Respondent(s)

To direct the Respondent herein to refund the amount sum of Rs.11,00,000/- with interest and within the time fixed by this Honble Court.

For Applicant(s): M/s.B. Manoharan
B.Dhanasekaran
Sumathii Selvaraj

For Respondent(s): Mr.A.Ramakrishnan for D1.

ORDER

Heard.

2. This application has been filed by the applicant/plaintiff in A.No.5655 of 2025 in Tr.C.S.No.186 of 2024, praying for a direction to the respondent/first defendant

to refund a sum of Rs.11,00,000/- with interest within the time to be fixed by this Court.

3. The case of the applicant, as set out in the affidavit, is that he had filed the suit claiming right over the property of his deceased brother Gurumurthy on the strength of an unregistered Will dated 10.04.2007 and had challenged the auction sale conducted through the second defendant. According to him, pending suit and to prove his bona fides, he paid a total sum of Rs.11,00,000/- to the first respondent/Nidhi on or before 26.04.2022 and also filed a memo to that effect. It is his further case that though the suit later came to be dismissed on 06.12.2024, the amount paid by him continued to remain with the first respondent for more than two years, and when he sought refund, he was informed that without orders of this Court the amount could not be returned. He would therefore seek refund of the said sum with interest.

4. In the counter affidavit originally filed, the Receiver opposed the application mainly on the ground that the suit itself had already been rejected for want of cause of action by order dated 06.12.2024 in Tr.C.S. No. 186 of 2024 and therefore, the present application was not maintainable. The Receiver also stated that the

respondent Nidhi is under the administration of the Receiver appointed by this court in C.S. No. 721of 1998 and that the company has become bankrupt.

5. It was seen that the counter filed by the said Receiver was bereft of necessary particulars and did not specifically controvert the material facts relating to the petitioner’s claim for refund of the sum of Rs.11,00,000/-. The Receiver had mainly opposed the application on the ground of maintainability, contending that the suit itself had already been rejected for want of cause of action by order dated 06.12.2024 in Tr.C.S.No.186 of 2024. The counter also merely stated that the respondent Nidhi was under the administration of the Receiver appointed by this Court in C.S.No.721 of 1998 and that the company had become bankrupt. However, no clear particulars were furnished as to whether the said amount had in fact been received, how it was credited, whether it had been appropriated, where the amount was presently lying, and what was the present status of the administration of the Nidhi. In view of the said deficiencies, this Court, by order dated 01.04.2026, directed the Receiver to file an additional affidavit specifically disclosing the above particulars.

6. Pursuant thereto, the Receiver has filed the additional counter affidavit. In the additional counter, the Receiver has categorically admitted that the applicant did pay the sum of Rs.11,00,000/-; has furnished the dates and mode of receipt, namely, cash payment of Rs.3,00,000/- on 15.03.2022 and bank transfers on 25.03.2022, 26.03.2022, 27.03.2022, 29.03.2022 and 19.04.2022 aggregating to Rs.8,00,000/-; has stated that the amount stands credited under the account head of R.Ganapathy; has further stated that the amount has not been appropriated towards any dues; and has also stated that the amount is lying with the Nidhi and in the custody of the Receiver.

7. In view of the said categorical admissions in the additional counter affidavit, the objection as to maintainability, in the peculiar facts of the present case, cannot stand in the way of granting limited relief. The amount now claimed is not shown to have been appropriated towards any legally determined liability of the applicant. On the contrary, the Receiver has admitted that the sum of Rs.11,00,000/- was indeed received from the applicant, stands separately credited in his name, and remains unappropriated in the custody of the Receiver. Once those facts stand admitted with apparently no objection raised by the respondent during the hearing of this application for refund of the sum, there is no justification for the respondent

to continue to retain the applicant's money, particularly when the suit itself has already come to an end and the payment was only stated to have been made during pendency of the proceedings to establish bona fides.

8. At the same time, having regard to the status of the respondent Nidhi as one under administration of the Receiver and in the absence of any material showing any contractual or statutory basis for interest, this Court is of the view that the ends of justice would be met by directing refund of the principal amount alone.

9. Accordingly, this application is allowed in part. The Receiver representing the first respondent/Nidhi is directed to refund to the applicant the sum of Rs.11,00,000/- within a period of four weeks from the date of receipt of a copy of this order. In the facts and circumstances of the case, the claim for interest is rejected. No costs.

24-04-2026

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

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DR.A.D.MARIA CLETE, J.

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