(1950) 08 CAL CK 0020

In the Calcutta High Court

Case No : Civil Rules No''s. 1999 to 2001 of 1949

Dominion of India and Another — APPELLANT

Vs

Mahabir Lall and Others — RESPONDENT

Date of Decision : 21-08-1950

Acts Referred:
Provident Funds Act, 1925 — Section 3(1), 4(1)

Citation : AIR 1951 Cal 285

Hon'ble Judges : K.C. Chunder, J

Bench : Single Bench

Advocate : Bhabesh Narayan Bose, for the Appellant;Sanat Kumar Mukherjee and Subodh Kumar Bhattacharjee, for the Respondent

Judgement

K.C. Chunder, J.—These are three revisions against three orders of the Munsif Second Court Burdwan.

2. Three decrees were obtained against three Railway servants. The Munsif of Burdwan appointed three Receivers in the three cases by way of equitable execution and directed the Chief Accounts Officer of the East Indian Railway in two cases and the Divisional Accounts Officer of the same Railway in the third case to make over to the Receiver the Provident Fund money. This order was even before the money became payable to the depositor. These three Rules are against that order of the Munsif in the case of the three Accounts Officers.

3. Good deal has been sail as to whether the Munsif had jurisdiction to appoint a Receiver in each of these cases. It seems that Roxburgh J. had doubted not exactly the jurisdiction but the propriety of doing so in case of Railway or Government Provident Funds. As far as jurisdiction is concerned, as Section 3(1), Provident Funds Act, speaks only of attachment, it is clear that Receivers can be appointed, but how the Receivers are to realise the assets must be according to further provisions of the law. In case of Government or Railway employee, Section 4(1), Provident Funds Act, is a direct bar to any payment being made when the money becomes payable to any one except a depositor. I am not

dealing with the case of what happens on the death of the depositor as in all these cases there has been no death. It is said u/s 4 that when the money.

"has become payable the Officer whose duty it is to make the payment shall pay the sum or balance as the case may be to the subscriber or depositor."

As it is a statutory duty, the Court is not authorised to direct him to do anything else than what he is directed by the statute to do. The Court may pass any order it likes on the judgment-debtor as regards dealing with the money as soon as the payment is made by the Accounts Officer to the depositor. With that we are not concerned in the present case. As far as the order on the Chief Accounts Officer or the Divisional Accounts Officer is concerned, such an order is in direct contravention of the statutory liability of the Accounts Officer u/s 4, Provident Funds Act and therefore the Court had no jurisdiction to pass such an order overriding the statute.

4. The order therefore is that the order of the Munsif is set aside in all three cases in so far as the same related to the Chief Accounts Officer or the Divisional Accounts Officer and directed such person to pay over the Provident Fund money to any one except the depositor as laid down u/s 4, Provident Funds Act.

5. Each party will bear his own costs in these Rules.

