

CJ& SVSJ:
24.06.2020

W.P.No. 7338 of 2020

ORDER

During the period of lockdown and partial functioning of the district and trial Courts in the State, the entry of litigants to the Court premises is not permitted. As a result, large number of litigants and especially the claimants and victims in Motor Vehicle Accident Claim cases, claimants under the Workmen's Compensation Act, 1923 and claimants in Land Acquisition Compensation cases etc., are not able to receive the amounts to which they are legitimately entitled, though the amounts payable to them are lying deposited in the judicial accounts of Khajane-2 (for short 'K-2'). Therefore, it is necessary to evolve a procedure in such a manner that without compromising on the safety and security, the payments can be released to the litigants.

2. We have heard the learned Additional Advocate General on this subject. We have perused a detailed note submitted by the Registrar (Computers).

3. The learned Additional Advocate General pointed out that recipients of payments from K-2 are required to file certain documents for recipients registration like UIDAI, PAN or authentic

photo identity. The recipients must also disclose their bank account particulars such as bank account type, IFSC code and MICR code for safe payments. He pointed out that it will be ideal if the mandate form generated by K-2, which is prescribed by the Reserve Bank of India, is signed by the recipients, as the said mandate form contains all the account particulars of the recipients. He urged that it is necessary that the same are confirmed by the recipients. The learned Additional Advocate General is right in his submission that it is necessary to ensure that the amount should go to the real recipients.

4. We have also carefully perused the note prepared by the Registrar (Computers) and perused the specimen documents annexed thereto. Along with the application for receiving the payments, the applicant will have to submit, apart from the documents of identity and bank particulars, a voucher for repayment of the judicial deposit duly signed. The signature of the applicant in the voucher should be identified by his or her Advocate.

5. It is, therefore, necessary to refer to K-2 system and understand its few features thereof. After implementation of K-2, the judicial deposits are maintained in accounts in K-2. There are

two types of deposits. The first is Civil Court Deposit (CCD) and the second is Criminal Court Deposit (CrCD). In terms of Chapter XVI of the Karnataka State Financial Code, these deposits are known as judicial deposits which are operated by the Courts. After deposit of the amounts in judicial accounts, challan reference number is created and a challan is generated.

6. After implementation of K-2, the payments from judicial deposits are done only by way of electronic clearing by transferring the amounts directly to the accounts of the claimants and the cheques are not being issued. In case of current deposits (deposits which have not lapsed), the payment is authorized by the Court by generating the bills on K-2.

7. As far as the mode of payment through judicial accounts in K-2 is concerned, there are no specific Rules in Chapter XXVII of the Karnataka Rules of Civil Practice, 1967. The only provision is that when an amount exceeding Rs.5,000/- is payable to a party, it shall be paid by drawing an account payee cheque only. Thus, the embargo is on paying a sum exceeding Rs.5000 by cash.

8. Now, all payments to the litigants are being made only by way of direct transfer to their bank accounts from K-2 and the

earlier practice of issuing account payee cheques has been stopped. During the period of limited functioning of the Courts due to pandemic COVID 19, following guidelines shall be adopted by all the Courts for making payments:

- (i) The litigant who is entitled to receive the amount shall file an application giving all the details including the details of the decree/order of the Court under which he/she is entitled to withdraw the amount;
- (ii) Along with the application, he/she must furnish the copies of several documents such as first page of the bank passbook containing the details of the bank account, such as the name of the bank, account number, name of the account holder and IFSC code of the bank. If the first page of pass book does not contain photograph of the account holder, a certificate of the Manager of the concerned Bank bearing photograph of the account holder and containing account details shall be produced;
- (iii) The account must be in the name of the person who is entitled to withdraw the amount as per the Court order;

- (iv) Along with the bank passbook, the applicant is required to furnish copies of PAN card/form 16, address proof and photo copies of the authentic identification documents such as Aadhar or election/ voter identity card or driving licence. The photo copies of the documents shall be self-attested as well as attested as true copies by his/her Advocate, if the applicant is represented by an Advocate;
- (v) Along with the application, an affidavit in support shall be filed by the applicant containing all the account details, which are necessary for transfer of money. A latest photograph of the applicant shall be affixed near the signature on the affidavit. The affidavit must affirm the correctness of the documents produced along with the application. Along with the application and affidavit, the applicant shall submit a blank voucher for payment of judicial deposit duly signed by him. If there are more than one applicant, affidavits of all of them are necessary. The signature on the voucher shall be identified by an Advocate by affixing his/her signature below the words "signature of the claimant"

or below the place for affixing the revenue stamp. Below the Advocate's signature for identification, he/she shall mention the Bar Council enrolment number. Few copies of the blank vouchers shall be made available by the Principal District Judge to the Bar Associations so that the members of the Bar can take photo copies of the same. The affidavit in support of the application must contain the statement that the blank voucher is signed by the applicant;

- (vi) The applications shall be placed before the concerned Court for passing necessary orders. The Court will peruse the records and ascertain as to whether the person who has made the application is entitled to receive the amount and whether there is a stay order of the higher Court. In the event the Judicial Officer concerned finds the applicant is entitled to receive the amount, he/she shall verify the documents for ascertaining whether all the bank account details have been furnished, whether the bank account stands in the name of the applicant etc. The physical presence of the party who makes an application for the

purposes of such verification is not necessary. Only when the Court entertains a serious doubt about the genuineness of the documents or finds discrepancies, which could not be explained by the Advocate for the applicant, only in such cases, the Court may insist on the presence of the person making the application either through video conferencing or by procuring physical presence. In case where the personal presence is required, the Court will pass an Order for issuing entry pass to the person concerned to appear before Court on relevant date. The physical presence of a person making application should be secured only when it is absolutely necessary;

- (vii) If the Court is satisfied on perusal of the application and the documents furnished that the applicant is entitled to receive the amount, the Court will pass an order directing transfer of the amount to the specific account of the applicant through K-2 process;
- (viii) Thereafter, the Court office/accounts section, after logging on K-2 portal, will generate bank mandate form. Print out of the bank mandate form shall be

handed over to the Advocate for the applicant for the purpose of obtaining the signature of the party on the mandate form and the concerned Advocate shall countersign the same by verifying the signature of the party. He/she shall mention his/her Bar Council enrolment number below his/her signature. Physical presence of the party in the Court for signing the mandate form is not required. The mandate form must be returned with the maximum period of three days. Thereafter, the mandate form shall be signed by DDO. Further steps shall be taken by the Court office for generation of miscellaneous bill. As the mandate form containing all the account details is signed by the applicant, his/her signature on the miscellaneous bill is not required. Subsequently, all the procedure required by K-2 shall be followed and the requisite amount will be transferred directly from the judicial account in K-2 to the bank account of the concerned party.

- (ix) We must note here that the Courts cannot insist on the person receiving the money affixing his/her signature on any register.

10. In the event the applicants are not represented by an Advocate, the payments cannot be made unless the applicants personally appear in the Court. In such cases, entry passes will have to be issued to them. But, the Courts shall ensure that second visit of the litigant is avoided and all the formalities are completed during one visit.

11. In case of orders pertaining to payment of maintenance in matrimonial matters, it will be appropriate if the concerned Courts issue directions for payment of maintenance by way of RTGS or in any other mode of direct transfer by the person who is liable to pay the maintenance to the account of the person who is entitled to receive the maintenance.

12. Due to pandemic of COVID-19, the litigants are not able to receive the payments for the last three months and therefore, all the Courts shall make an endeavor to dispose of the applications made for payment at the earliest and see that the eligible litigants can get the amounts at the earliest. The Courts cannot restrict the

payments per day to a particular number of cases. While we issue these directions, we make it clear that it is the duty of the Courts to ensure that the amounts are paid to those who are entitled to it.

13. It is reported that on many occasions, K-2 is not easily accessible due to server issue. We, therefore, direct the State Government to ensure that quick access to K-2 is facilitated to enable the Courts to release the payment.

Thus, the issue of making payment out of the judicial deposit during the limited functioning of the Courts during the pandemic of COVID-19 is answered in terms of this order.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Vr