



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2015

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.A.Nos.70 to 80 2015
and
M.P.Nos.1 of 2015 (11 Nos.)

R.Murali	.. Appellant in W.A.No.70 of 2015 (Petitioner)
E.Sekar	.. Appellant in W.A.No.71 of 2015 (Petitioner)
C.Asokan	.. Appellant in W.A.No.72 of 2015 (Petitioner)
A.Dhilkaj Banu	.. Appellant in W.A.No.73 of 2015 (Petitioner)
S.Balamani	.. Appellant in W.A.No.74 of 2015 (Petitioner)
R.N.P.Ravi	.. Appellant in W.A.No.75 of 2015 (Petitioner)
B.S.Jayamani	.. Appellant in W.A.No.76 of 2015 (Petitioner)
Thamilarasan	.. Appellant in W.A.No.77 of 2015 (Petitioner)
S.Baskar	.. Appellant in W.A.No.78 of 2015 (Petitioner)
U.Uma	.. Appellant in W.A.No.79 of 2015 (Petitioner)
Shahul Hameed	.. Appellant in W.A.No.80 of 2015 (Petitioner)

Vs.

1. The Commissioner,
Corporation of Salem,
Salem-636 001.
 2. The General Manager,
Salem District Co-operative
Milk Producers Union Limited,
Sithanur, Thalavaipatty post,
Salem-636 302.
 3. The Assistant Commissioner,
Corporation of Salem,
Sooramangalam Ward, Salem-636 005.
- .. Respondents in all appeals
(Respondents)



Appeals filed under Clause 15 of Letters Patent against the common order dated 23.9.2014 made in W.P.Nos.12997 to 13007 of 2013 on the file of this Court. Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of Writs of Certiorarified Mandamus, to call for the records relating to resolution passed by the 1st respondent in Resolution No.216, dated 29.10.2012 and consequential impugned order passed by the 2nd respondent in Na.Ka.No.9452/Virpanai/M4/11/4, dated 18.04.2013 (in respect of W.P.No.12997 of 2013), Na.Ka.No.9452/Virpanai/M4/11/8, dated 18.04.2013 (in respect of W.P.No.12998 of 2013), Na.Ka.No.9452/Virpanai/M4/11/3, dated 18.04.2013 (in respect of W.P.No.12999 of 2013), Na.Ka.No.9452/Virpanai/M4/11/5, dated 18.04.2013 (in respect of W.P.No.13000 of 2013), Na.Ka.No.9452/Virpanai/M4/11/1, dated 18.04.2013 (in respect of W.P.No.13001 of 2013), Na.Ka.No.9452/Virpanai/M4/11/7, dated 18.04.2013 (in respect of W.P.No.13002 of 2013), Na.Ka.No.9452/Virpanai/M4/11/9, dated 18.04.2013 (in respect of W.P.No.13003 of 2013), Na.Ka.No.9452/Virpanai/M4/11/12, dated 18.04.2013 (in respect of W.P.No.13004 of 2013), Na.Ka.No.9452/Virpanai/M4/11/11, dated 18.04.2013 (in respect of W.P.No.13005 of 2013), Na.Ka.No.9452/Virpanai/M4/11/6, dated 18.04.2013 (in respect of W.P.No.13006 of 2013) and Na.Ka.No.9452/Virpanai/M4/11/10, dated 18.04.2013 (in respect of W.P.No.13007 of 2013), quash the same and further direct the 1st respondent to renew the licence of the petitioners to run their bunk shops as per the representation of the petitioners, dated 09.04.2013.

For Appellant .. Mr.S.Prabhakaran
in all appeals for Mr.T.P.Senthilkumar

For Respondents .. Mr.P.H.Arvind Pandian
1 and 3 Additional Advocate General
assisted by Mr.A.S.Thambuswamy

For Respondent .. Mr.V.Raghupathi
No.2

* * * * *

COMMON JUDGMENT

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

It has been pointed out by the learned Additional Advocate General appearing for respondents 1 and 3 that after the writ petitions were reserved for orders by the learned Single Judge, which culminated in the impugned order dated 23.9.2014, the appellants preferred civil suits in O.S.Nos.70 to 81 of 2014 possibly on the basis that the writ petitions are not maintainable. In the said suits, there was no disclosure of the proceedings on the writ side.



Writ petitions were dismissed, vide impugned order dated 23.9.2014. Respondents 1 and 3 herein moved the trial Court for dismissal of the suits. The learned II Additional District Munsif, Salem, vide order dated 06.02.2015, dismissed the suits both on the ground of non-disclosure and on merits stating that there would be no purpose in continuing the suit proceedings, as it can never result in ultimate success. Power has been exercised under Section 151 of Code of Civil Procedure to dismiss the suits, by referring to various judicial pronouncements of the Hon'ble Apex Court.

2. In the present appeals, the factum of suits being dismissed or in fact filed, has not been disclosed.

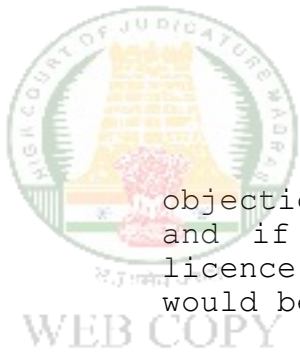
3. The result of the aforesaid proceedings is that the appellants can hardly press the present appeals.

4. Learned counsel for the appellants, on instructions, submits that, he will withdraw the appeals, as the remedy left open with the appellants would be now to assail the decision rendered in the suits in O.S.Nos.70 to 81 of 2014 on the file of the II Additional District Munsif Court, Salem by way of an appeal. Endorsement has been made.

5. Writ appeals are dismissed, as withdrawn in the aforesaid terms. No costs. Consequently, all connected Miscellaneous Petitions are closed.

6. Learned counsel for the appellants, at this stage, suggests that the matter is capable of being resolved amicably, as the appellants are willing to give an undertaking to buy and sell the Milk alone from the second respondent and abide by the terms of the licence with conditions that if any violation is found in future, their licence may be revoked.

7. Learned counsel for the second respondent states that in view of this offer, the matter will be examined by the Board of the Society, whether the licence can be renewed in these circumstances, subject to the normal commercial terms. Such a decision, be taken within thirty (30) days.



8. Actually, first respondent-Corporation of Salem can have no objection, as they have given licence only to the second respondent and if the appellants are willing to abide by the terms of the licence, the interest of the first respondent-Corporation of Salem would be protected.

bbr

-s/d-

Assistant Registrar(CS-II)

Dt:18/2/2015

True Copy

Sub-Assistant Registrar

To

1. The Commissioner,
Corporation of Salem,
Salem-636 001.
2. The General Manager,
Salem District Co-operative
Milk Producers Union Limited,
Sithanur, Thalavaipatty post,
Salem-636 302.
3. The Assistant Commissioner,
Corporation of Salem,
Sooramangalam Ward,
Salem-636 005.

+ 1 cc to Mr.A.S.Thambuswamy, Advocate SR 8918

+ 1 cc to Mr.T.P.Senthil Kumar, Advocate SR 8608

+ 1 cc to Mr.V.Raghavachari, Advocate SR 8835

ts(co)
prk18/2

W.A.Nos.70 to 80 of 2015