

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.12.2015

CORAM

THE HONOURABLE MR. JUSTICE **M.M. SUNDRESH**

Contempt Petition No. 849 of 2015

&

M.P. No. 1 of 2013 in W.P. No. 6208 of 2013

Thenmozhi

..Petitioner

Vs.

The Management,
E-2625, Poogunam Primary
Agriculture Co-operative
Credit Society Ltd.,
rep. by its Special Officer,
Santhanam,
L.N. Puram Post,
Panruti Taluk,
Cuddalore District. ..Respondent

Prayer: Petition under Sections 11 & 12 of the Contempt of Courts Act, 70/71 to punish the respondents for having committed contempt of Court by disobeying the order dated 28.03.2014 passed in M.P. No. 1 of 2013 in W.P. No. 6208 of 2013.

WEB COPY

For Petitioner :: Mr.V. Neethi Durai

For Respondent :: Mr.L.P. Shanmugasundaram,
Special Govt. Pleader

O R D E R

<https://hcservices.ecourts.gov.in/CaseDetails> regarding the order dated 29.12.2012 passed by the Appellate Authority under the Shops and Establishment Act,

1947, the writ petition has been filed by the respondent Management.

2. Pending the writ petition, M.P. No. 1 of 2013 was filed by the 2nd respondent in the writ petition/contempt petitioner seeking payment under Section 17(b) of Industrial Disputes Act. This court passed the following order on 28.03.2014 in the said petition:

"As payment of wages under Section 17(b) of the Industrial Disputes Act is mandatory, a direction is given to the second respondent to pay the last drawn wages in favour of the petitioner herein, as per Section 17(b) of the said Act. Insofar as the past arrears is concerned, the second respondent is directed to pay the same from the date of filing of the writ petition till March, 2014, within a period of eight weeks from today. The petition is ordered accordingly."

Thereafter, M.P. No. 2 of 2014 was filed by the writ petitioner seeking permission to raise additional grounds.

3. Now, this contempt petition has been filed by the 2nd respondent in the writ petition on 04.12.2014 alleging that the order passed as early as on 28.03.2014 has not been complied with. In the meanwhile, a vacate stay

petition was filed on 29.04.2015. When the contempt petition was taken up for hearing, counsel for the Management submitted that in view of the interim petition in M.P. No. 1 of 2015 having been filed to vacate the direction dated 28.03.2014, both the applications may be taken up together.

4. Learned counsel appearing for the petitioner in M.P. No. 1 of 2015 submitted that there is no jurisdiction for the Appellate Authority under the provisions of the Shops and Establishments Act, 1947 to set aside the order of dismissal dated 29.12.2012.

5. On the other hand, learned counsel appearing for the contempt petitioner, who is also the counsel for the 1st respondent in M.P. No. 1 of 2015, submitted that the said plea has been raised only by way of an additional ground before this Court. Further, according to the learned counsel, the contempt petitioner has not been paid any amount from the date of the order passed by the Appellate Authority under the Shops and Establishment Act, 1947.

6. Admittedly, the plea of jurisdiction has not been raised either before the Appellate Authority or at the time of filing the writ petition. It is only by way of an afterthought it has been raised by filing an application in

M.P.No. 2 of 2014, which has been ordered. While granting order, this Court has to consider the equities. The petitioner in M.P. No. 1 of 2015 cannot seek a blanket order. Though there was no stay granted at the time of entertaining the writ petition, the interim direction would amount to giving a blanket order of stay, that too, even without granting the same. Therefore, looking from any angle, this Court is not inclined to allow M.P.No. 1 of 2015.

7. However, considering the facts and circumstances of the case, to satisfy both sides, though it is submitted by the contempt petitioner that as on today, a sum of Rs.2,16,000/- is liable to be paid by the writ petitioner Management, being the sum payable after the award passed by the Appellate Authority, a sum of Rs.1 lakh is directed to be paid by the writ petitioner by way of interim arrangement to the contempt petitioner within a period of six weeks from the date of receipt of a copy of this order, and thereafter, a further sum of Rs.6000/- permonth, being the last drawn wages, will have to be paid till the disposal of the writ petition.

8. Accordingly, the contempt petition is closed and

M.P. No. 1 of 2015 is disposed of by modifying the earlier order passed in M.P. No. 1 of 2013.

9. Post the writ petition for final hearing during the third week of March, 2016.

nv

SD/-
DEPUTY REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

SS/CO/18/01/2016

One CC to Mr.V.Neethi Durai, Advocate, Sr.No.438

To

1.The Management
E-2625, Poogunam Primary,
Agriculture Co-operative Credit Society Ltd,
Rep.by its Special Officer,
L.N.PUram Post,
Panruti Taluk,
Cuddalore District.

2.The Section Officer,
Writ Section,
High Court, Madras-104.

सत्यमेव जयते
WEB COPY