

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2016

C O R A M

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

WP.No.13609/2016 & WMP.No.11916/2016

V.K.Palanisamy

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Petitioner

Versus

1 The Director
Handloom and Textiles
Kuralagam, Chennai-108.

2 The Assistant Director
Handloom and Textiles
No.426, Bhavani Main Road
Erode, Erode District.

3 The President
Sri Thirumagal Powerloom Weavers
Co-op Socceity, EH-223
Marappalayam
Erode.

..

Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of mandamus directing the respondents to disburse coolly to the old members of the 3rd respondent society to the tune of Rs.44.53 lakhs including the petitioner herein.

For Petitioner

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Mr.C.Prakasam

For R1&R2

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Mr.L.P.Shanmugasundaram

Spl.GP [Co.op]

For R3

...

Mrs.T.P.Savitha, GA

ORDER

Heard the learned counsel for the petitioner ;
Mr.L.P.Shanmugasundaram, learned Special Government Pleader
[Co.op] appearing for the respondents 1 and 2 and
Mrs.T.P.Savitha, learned Government Advocate appearing for the
3rd respondent and with their consent, the writ petition is taken
up for final disposal.

2 The petitioner has filed this writ petition seeking for a direction to disburse the wages of the then employees of the 3rd respondent / Society, payable to the tune of Rs.44.53 lakhs.

3 The Government announced a scheme for supply of free dhotis and sarees, which have to be weaved in the Power-looms established and administered by various Cooperative Societies, throughout the State, falling under the control of the respondents 1 and 2. One such order was given to the 3rd respondent / Society, who in turn, supplies the yarn to its members, which includes the petitioner, who in turn, have to weave the cloth and supply the same, back to the Society. Thus, the member of the 3rd respondent / Society who does this work, is entitled to the wages as per the prescribed rate. As on date, a sum of Rs.44.53 lakhs is payable to ten members of the 3rd respondent / Society, which includes the petitioner.

4 On the last occasion, when the case came up for hearing on 11.04.2016, this Court, pointed out that the instructions given by the respondents reveals a sorry state-of-affairs in the matter of disbursement of the funds by the Government to the weavers, who have manufactured dhotis and sarees mentioned for free distribution. The payment for the supplies which were effected upto the year 2014, were not settled, but the supplies effected by the new members, who were elected to the 3rd respondent / Society during the year 2014, appears to have been hurriedly made. Therefore, the respondents were directed to explain their conduct as to why they should not be directed to effect payment to the suppliers who have made supplies prior and upto the year 2014. From the counter affidavit, filed by the 3rd respondent / Society, it is seen that the petitioner and few other members are no longer the members of the 3rd respondent / Society ; but they have started a new Society and this appears to have been the reason to drag them and to deny their actual dues. A feign plea was raised by the learned Special Government Pleader by stating that a writ of mandamus cannot be issued when there is a disputed question of fact, especially, when it is a money claim. This submission deserves to be rejected in the light of the fact that in paragraph 12 of the counter, it has been admitted that a sum of Rs.44.53 lakhs are due and liable to be paid to the members of the 3rd respondent / Society. Therefore, the conduct of the respondents have to be tested on their own admission. The justification given for disbursing the wages to the newly inducted members during 2015-16, is not convincing.

5 As observed earlier, the only reason for refusing to settle the petitioner and other members, is on account of the fact that they are a breakaway group and they have organised themselves into a new Society. This can hardly be a reason to

deny the lawful dues. Ultimately, the learned Special Government Pleader [Co.op], on instructions from the respondents, submitted that they will settle the petitioner's due, which is Rs.3,53,540/-. However, it has to be pointed out that the prayer in the writ petition is not only to settle the petitioner but also the old members of the Society, to the total tune of Rs.44.53 lakhs. The learned Special Government Pleader [Co.op] states that it is not a Public Interest Litigation. This submission is also devoid of merits, in the light of the fact that already the old members of the Society have been dealt with arbitrarily and now the respondents want each of them to approach this Court and file separate writ petitions. This hyper-technical plea raised by the respondents stands rejected.

6 In the light of the same, there will be a direction to the 3rd respondent / Society to settle a sum of Rs.3,53,540/- payable to the petitioner on or before 13.05.2016 and in respect of the remaining nine members, the entire dues shall be settled on or before 30.06.2016.

7 The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

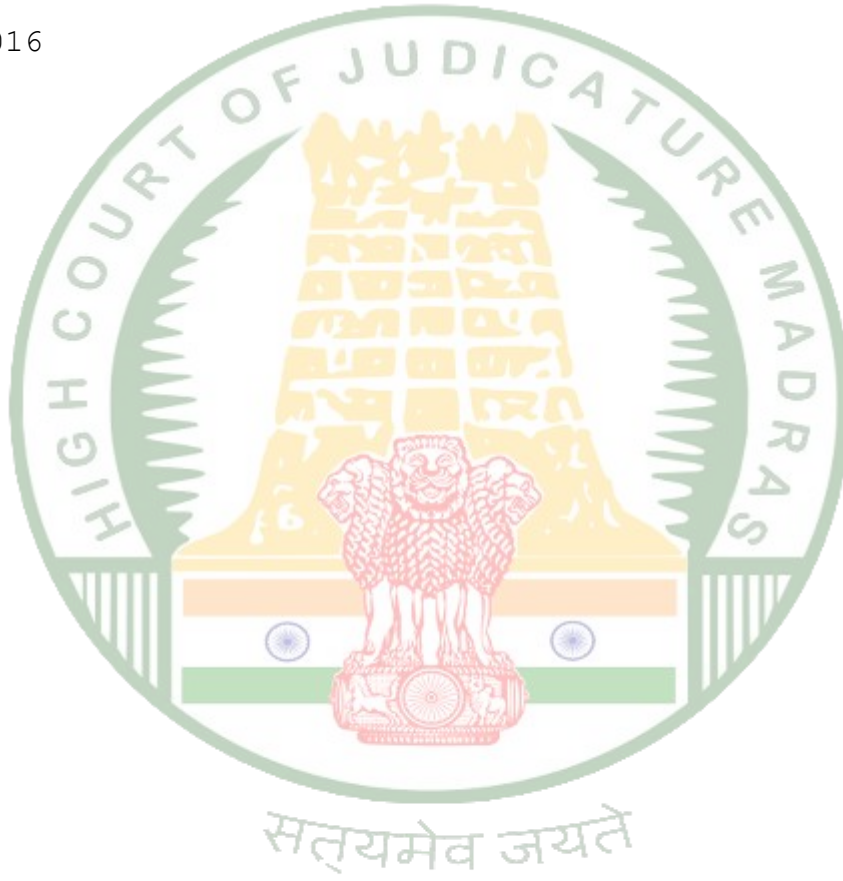
To

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+1 cc to the Government Pleader sr.27423
+1 cc to Mr.T.P.Savitha Government Advocate sr.27541
+1 cc to Mr.C.Prakasam Advocate sr.27390

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