

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM:

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P. No.3166 of 2013

and

M.P. No.1 of 2013

P.Baskaran

... Petitioner

Vs

1. The Managing Director,
The Tamil Nadu Handloom Development
Corporation Ltd.,
Kuralagam, 2nd Floor,
Chennai - 8.

2. The Branch Manager,
The Tamil Nadu Handloom Development
Corporation Ltd.,
Kuralagam, 2nd Floor,
Chennai - 8.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the 2nd respondent notice in his proceedings in Tha.Kai.va.Ka/kee.may./Kanchi/kadan.Enn40/95-96/2012/13, dated 27.11.2012, and quash the same.

For Petitioner : Mr.C.Prakasam for Mr.M.Suresh

For Respondents : Mr.R.Govindasamy,
Special Government Pleader
for RR1 & 2

O R D E R

Heard Mr.C.Prakasam, learned counsel for the petitioner and Mr.R.Govindasamy, learned Special Govt. Pleader.

2. The case of the petitioner is that the petitioner has borrowed a sum of Rs.50,000/- as loan from the respondent on 29.09.1995 for the purpose of his handloom business. As per the terms and conditions of the loan agreement, the petitioner shall pay the loan amount, within a period of five years in 18 instalments, together with interest at the rate of 7%. The

respondent had calculated the amount due for each instalments in advance and had also collected 18 Post Dated Cheques from the petitioner.

3. Admittedly, all the cheques have been honoured and there is no default on the part of the petitioner. After realisation of the entire amount under these 18 cheques, the respondent now issued a notice dated 27.11.2012 claiming a sum of Rs.23,082/- as outstanding and payable by the petitioner. Aggrieved against the said notice, the petitioner has filed the present Writ Petition.

4. The impugned order on the face of it, seems to be illegal for the simple fact, that, when the loan agreement was entered into, the respondent had already calculated the amounts due on the principal as well as the interest and accordingly, entered the pre-determined instalment amounts in the Post Dated Cheques collected from the petitioner. In other words, the petitioner has already taken into account, the interest due on the loan availed by him. If at all, there is any outstanding after realisation of 18 cheques, it could only be miscalculation on the part of the respondent, in not arriving at the amount due on the Post Dated Cheques. Such a mistake cannot be put against the petitioner and the petitioner should not have suffered on account of the same.

5. In view of the above, the impugned order cannot be sustained and is liable to be dismissed. Accordingly, the impugned order is set aside.

6. The petitioner was directed by an interim order dated 08.02.2013, in Miscellaneous petition, No.1 of 2013 to deposit a sum of Rs.23,082/- (Rupees twenty three thousand and eighty two only) with the second respondent and the same has been deposited by the petitioner vide Receipt No.004577, dated 19.02.2013. In view of the order passed today, the second respondent shall forthwith return the deposit amount of Rs.23,082/- to the petitioner in any case within a period of two weeks from the date of receipt of the copy of the order.

7. In the result, the petition is allowed with the above direction and the proceedings in Tha.Kai.va.kee.may./Kanchi/kadan.Enn40/95-96/2012/13, dated 27.11.2012 is hereby quashed. No costs. Consequently connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsi2

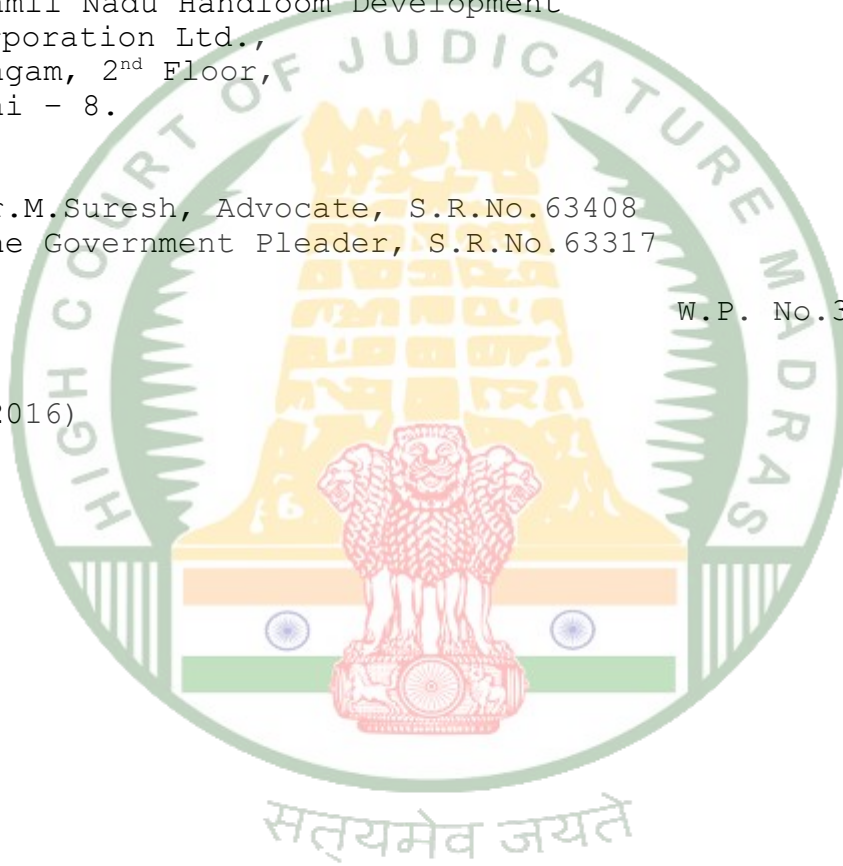
To

1. The Managing Director,
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Kuralagam, 2nd Floor,
Chennai - 8.
2. The Branch Manager,
The Tamil Nadu Handloom Development
Corporation Ltd.,
Kuralagam, 2nd Floor,
Chennai - 8.

+1cc to Mr.M.Suresh, Advocate, S.R.No.63408
+1cc to the Government Pleader, S.R.No.63317

W.P. No.3166 of 2013

SSI (CO)
CA(09/12/2016)



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