



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE Mrs.JUSTICE J.NISHA BANU

Writ Appeal (MD).No.1312 of 2016

and

C.M.P.(MD).No.9236 of 2016

M/s. Allwin Cables

represented by its Managing Director,

P.Mathivanan.

... Appellant/Petitioner

Vs.

1. Tamil Nadu Industrial Investment

Corporation Limited,

represented by its Managing Director,

No.692, Anna Salai, Nandanam,

Chennai 600 035.

2. The Regional Officer,

Tamil Nadu Industrial Investment

Corporation Limited,

Anna Nagar,

Madurai 625 020.

3. The Branch Manager,

Tamil Nadu Industrial Investment

Corporation Limited,

Dindigul Branch,

Plot No.9, Spencer Compound

(2nd Floor),

Thiruvalluvar Salai,

Dindigul 624 003.

4. The Tahsildar,

Vedasandur Taluk,

Dindigul District.

... Respondents/Respondents

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent Act against the order passed by this Court in W.P.(MD).No.3328 of 2012 dated 11.03.2016.

Prayer in W.P.(MD).No.3328 of 2012:

<https://hcservices.mca.gov.in/Services/> Writ of Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent not to proceed against the petitioner



from making any claim against the loan sanctioned by the respondent.

For Appellant : Mr.A.John Vincent
For Respondents : Mr.R.Velmurugan
Government Advocate

WEB COPY

J U D G M E N T

(Judgment of the Court was made by **M. SATHYANARAYANAN, J.**)

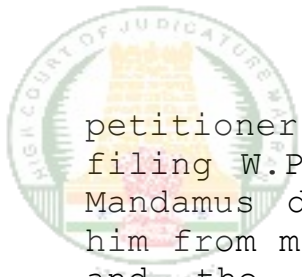
By consent, the writ appeal itself is taken up for final disposal.

2. The appellant/writ petitioner firm is a partnership firm and started the partnership firm under the name and style of M/s. Allwin Cables for the purpose of carrying on the business of manufacturing and selling of cables and the said firm, for the said purpose, had approached the third respondent for availing the loan and accordingly, a sum of Rs.1,25,000/- (Rupees One Lakh and Twenty Five Thousand only) was sanctioned by the sanction order, dated 28.10.1981, directly to the company by way of a cheque drawn on Canara Bank, Chennai.

3. It is the claim of the appellant/writ petitioner firm that he has also paid a sum of Rs.50,000/- (Rupees Fifty Thousand only) towards part payment of the value of the machinery and though, a communication dated 20.05.1983, was sent to him informing about the sanction of the subsidy amount of Rs.72,120/- (Rupees Seventy Two Thousand One Hundred and Twenty only), it was not transferred to his account.

4. It is also contended by the appellant/writ petitioner firm that the machinery is ready for delivery and directed him to take out the same after paying the balance consideration and in this regard, the appellant/writ petitioner firm has also written a letter, dated 20.06.1983, requesting the third respondent to approve and arrange for disbursement of the second instalment loan directly to the said company. However, it has not been paid.

5. It is also stated by the appellant/writ petitioner firm that to the shock and surprise, the third respondent has initiated action under Section 29 of the State Financial Corporation Act, vide proceedings, dated 20.09.1985 and the grievance expressed by the appellant/writ petitioner firm is that the amount due and payable to the machinery as well as the subsidy have not yet been disbursed and as such, recovery proceedings cannot be initiated. The appellant/writ petitioner firm was issued with a demand notice calling upon him to pay a sum of Rs.23,96,020/- (Rupees Twenty Three Lakhs Ninety Thousand and Twenty only) towards principal as well as the interest due. The appellant/writ



petitioner firm in this regard has also approached this Court by filing W.P.(MD).No.20822 of 2002 praying for issuance of writ of Mandamus directing the second respondent not to proceed against him from making any claim in respect of the loan sanctioned to him and the said writ petition was dismissed as withdrawn on 17.06.2002, granting liberty to the appellant/writ petitioner firm to seek remedy before the civil forum pertaining to the averments made in the writ petition.

6. The learned counsel appearing for the appellant would submit that the third respondent has also sent a communication dated 20.02.2012, calling upon him to pay a sum of Rs.1,04,63,194.35/- (Rupees One Crore Four Lakhs Sixty Three Thousand One Hundred and Ninety Four and Paise Thirty Five only) by way of One Time Settlement and it has also been indicated that the said offer is without prejudice to his rights and contentions and in the event of the appellant/writ petitioner firm paying the amount, the third respondent may make a further demand.

7. This Court has carefully considered the rival submissions made by Mr.A.John Vincent, the learned counsel appearing for the appellant and Mr.R.Velmurugan, the learned Government Advocate appearing for the respondents and also perused the materials placed before this Court.

8. This appellant/writ petitioner firm, on an earlier occasion had approached this Court by filing W.P.(MD).No.20822 of 2002, with almost similar averments and chose to withdraw the writ petition and accordingly, it was dismissed as withdrawn on 17.06.2002, granting liberty to the appellant/writ petitioner firm to approach the civil forum.

9. The petitioner once again approached this Court by filing W.P.(MD).No.3328 of 2012 for similar relief. In the considered opinion of this Court, the contention put forth by the learned counsel for the appellant/writ petitioner firm that in the event of acceptance of one time offer, the third respondent may make further demand lacks merit and substance for the reason that in the said letter though it has been stated that the acceptance of one time settlement, is without prejudice to the rights and contentions, it was a positive response and petitioner ought to have accepted it and proved his bona fides.

10. It is to be noted at this juncture that in the light of the order passed in W.P.(MD).No.20822 of 2002, dated 17.06.2002, coupled with the fact that the contract between the appellant/writ petitioner firm and the third respondent, is a non-statutory contract, the writ petition itself is not maintainable.

11. The learned Judge, while dismissing the writ petition, on 11.03.2012 had also granted liberty to the appellant/writ



petitioner to approach the third respondent with regard to the acceptance of the One Time Settlement, dated 20.12.2013. Therefore, the writ appeal is dismissed at the admission stage itself. No costs. Consequently, the connected Miscellaneous Petition is dismissed.

WEB COPY

Sd/-

Assistant Registrar(CRL)

/True Copy/

Sub Assistant Registrar

akv

TO

1. The Managing Director,
Tamil Nadu Industrial Investment
Corporation Limited,
No.692, Anna Salai, Nandanam,
Chennai 600 035.
2. The Regional Officer,
Tamil Nadu Industrial Investment
Corporation Limited,
Anna Nagar,
Madurai 625 020.
3. The Branch Manager,
Tamil Nadu Industrial Investment
Corporation Limited,
Dindigul Branch,
Plot No.9, Spencer Compound
(2nd Floor),
Thiruvalluvar Salai,
Dindigul 624 003.
4. The Tahsildar,
Vedasandur Taluk,
Dindigul District.

+1cc to Mr.A.John Vincent, Advocate Sr.No. 60933

+1cc to Spl.Government Pleader Sr.No. 61255

JAM/11.11.16/GSV-PM/ 4p-7c