

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.07.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.20589 of 2012

and

M.P.No.1 of 2012

S.Rajini

... Petitioner

Vs.

1.The Co-operative Tribunal
(District Judge), Coimbatore.

2.The Co-operative Sub-Registrar
(Arbitration and Execution),
Directorate of Sugar, Madras.
Krishnapuram, Udumalpet Taluk,
Coimbatore District.

3.The Special Officer,
The Amaravathi Co-operative
Sugar Mills Ltd.,
No.K-1570, Krishnapuram,
Udumalpet Taluk,
Coimbatore District.

... Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records the records relating to the decree and judgment dated 29.03.2012 made in Co-C.M.A.No.59 of 2008 on the file of the Co-operative Tribunal (The Principal District Judge), Coimbatore in confirming the award dated 29.09.2008 made in Claim A.R.C.No.1 / 2007-2008 dated 4.4.2007 passed by the 2nd respondent and quash the same and consequently forbear the respondents from recovering the amount from the petitioner.

For Petitioner : Mr.R.Dhanaram
for M/s.G.Ethirajulu

For 2nd Respondent : Ms.T.Girija
Government Advocate

For 3rd Respondent : Mr.R.Balaramesh
R1 - Tribunal

O R D E R

The petitioner has filed this writ petition challenging against the order passed in C.M.A.No.59 of 2008. According to the petitioner, the petitioner is the owner of the agricultural land and cultivating sugar cane. The petitioner entered into an agreement with the 3rd respondent as per the sugar cane control orders. During the year 2003, the petitioner entered into an agreement with the society for supply of sugar-cane. But there is no growth due to drought condition in the previous years. The petitioner sold the land to the 3rd party and also repaid the loan amount received from the 3rd respondent. The 3rd respondent accepted the same and subsequently the matter has been referred to as a dispute under Section 90 of the Tamil Nadu Co-operative Societies Act. According to the petitioner, there is no privity of contract with the 3rd respondent and the action taken by the 3rd respondent is barred by law of limitation. After receipt of notice, the petitioner submitted his explanation and appeared before the 2nd respondent. Thereafter, the 3rd respondent passed the award on 29.09.2008 by A.R.C.No.1/2007-2008 dated 04.04.2007 and held that the petitioner is liable for compensation.

2. Challenging the award, dated 29.09.2008, passed by the 3rd respondent, the petitioner has filed the Appeal under Section 152 of the Tamil Nadu Co-operative Societies Act, before the Tribunal. The said appeal has been dismissed by the Tribunal. Aggrieved by the said order, the petitioner has filed the present writ petition before this Court.

3. The learned counsel for the petitioner would submit that the Court below has failed to consider and submitted that the petitioner has paid entire loan amount to the 3rd respondent. The non-supply of sugar- cane caused damage to the 3rd respondent Mill, was claimed in the absence of any oral documentary evidence. The said claim made by the 3rd respondent is barred by limitation. The compensation amount fixed by the 3rd respondent is excessive and without any basis.

4. In the light of the above, the petitioner has challenged the order of the award passed by the 2nd respondent as well as the Tribunal. The learned counsel for the 3rd respondent/Society would submit that the petitioner has filed the appeal by raising the grounds that the petitioner sold the land and repaid the entire loan amount to the 3rd respondent society and therefore, he is not liable to pay any compensation to the 3rd respondent/Society. The other grounds raised by the 3rd respondent is barred by limitation is clearly answered by the appellate authority by stating that the said claim is barred by limitation. It is seen from the records that the petitioner is

the member of the 3rd respondent society, she entered into an agreement on 11.07.2003 for supply of sugarcane. The petitioner made an agreement to cultivate in 10 acres of land belonging to her and to supply the entire produce to the Mill during the season 2003-2004. As per the agreement, the petitioner has not supplied sugarcane to the 3rd respondent Mill. In the event of non-supply of sugarcane there is a clause in the agreement for claiming compensation by the 3rd respondent Mill. Therefore, the 3rd respondent Mill has filed the claim petition before the Arbitrator for recovery of a sum of Rs.47,272/- with costs. As per agreement, 3rd respondent Mill is entitled for compensation.

5. The petitioner has to supply the sugar-cane to the 3rd respondent society, failing which, as per the agreement the 3rd respondent is entitled for compensation. The harvesting order was issued on 25.04.2004. The Mill has preferred the claim on 21.02.2006 and hence, the said claim is not barred by limitation as contended by the petitioner. On the contrary, there is an agreement entered into between the parties, admittedly, there is violation of agreement and the petitioner has to prove her case by adducing necessary oral and documentary evidence in support of her contentions. In the absence of any such materials and the breach of contract between the parties, the petitioner is liable to pay the damages as claimed by the respondent. Therefore, there is no error or illegality in the impugned order.

6. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssn

To

- 1.The Co-operative Tribunal
(District Judge),
Coimbatore.
- 2.The Co-operative Sub-Registrar
(Arbitration and Execution),
Directorate of Sugar, Madras.
Krishnapuram, Udumalpet Taluk,
Coimbatore District.

3.The Special Officer,
The Amaravathi Co-operative
Sugar Mills Ltd.,
No.K-1570, Krishnapuram,
Udumalpet Taluk,
Coimbatore District.

+1cc to the Government Pleader, S.R.No.53479

W.P.No.20589 of 2012
and
M.P.No.1 of 2012

SV(CO)
CA(13/09/2017)



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