

RESERVED ON : 14.06.2017

DELIVERED ON : 16.06.2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2017

CORAM

THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.38797 of 2015 &

M.P.No.1 of 2015 & W.M.P.No.674 of 2017

N.Radhakrishnan

... Petitioner

v.

1.The State of Tamil Nadu,
Rep. by the Commissioner of Sugar and Cane,
Nandanam, Chennai - 600 035.

2.The Senior General Manager,
Shree Ambika Sugars Limited,
Factory at Eraiyur Village, Pennadam (RS) (PO),
Tittagudi Taluk, Cuddalore Dist. - 606 111.

3.The Branch Manager,
Punjab National Bank, Eraiyur Village,
Pennadam (RS) (PO), Tittagudi Taluk,
Cuddalore District - 606 11.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus, directing the Commissioner of Sugar and Cane to recover the amount due from the second respondent - the Senior General Manager, M/s.Sree Ambika Sugar Mill, herein to make payment of the dues of the petitioner as per the order of the Commissioner Sugar and Cane, order dated 05.11.2015.

For Petitioner : Mr.N.Radhakrishnan
(Party-in-person)

For Respondents : Mr.A.N.Thambidurai - for R1
Special Government Pleader.

Mr.Prahaladbhat - for R2
for Mr.R.Parthasarathy

Mr.M.L.Ganesh for R3

ORDER

The petitioner has filed the above writ petition to issue a writ of mandamus, directing the Commissioner Sugar and Cane, to recover the amount due from the second respondent to make payment of the dues of the petitioner as per the order of the first respondent dated 05.11.2015.

2. Heard Mr.N.Radhakrishnan, petitioner-in-person, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the first respondent, Mr.Prahaladbhat, learned counsel appearing for the second respondent and Mr.M.L.Ganesh, learned counsel appearing for the third respondent.

3. The brief case of the petitioner is as follows :

(i) According to the petitioner, he is a registered cane grower growing sugarcane within the reserved area of M/s.Shree Ambika Sugars Limited situated in Eraiyur Village, Tittagudi Taluk, Cuddalore District. According to the petitioner, he had supplied all the sugarcane to the Sugar Mill to meet the provisions of the Sugar Control order. For the year 2012-2013, the crop had failed more than 50% and the yield got reduced. The petitioner also got irrigation loan sanctioned from the third respondent on the orders of this Court in W.P.No.6171 of 2013. The Cane Officer of the second respondent issued cutting order to harvest the cane and the petitioner has promptly supplied the cane for the past two years by heavily spending on the Transport and Harvesting Operations. As per the Sugar control order, the second respondent was supposed to make payment within fourteen days from the date of supply of the sugarcane. According to the petitioner, he had supplied more than 100 tons of sugarcane for the months of August and September 2014, for which, he owe the third respondent by a crop loan of Rs.1,00,000/- (Rupees one lakh only).

(ii) The third respondent issued a demand letter calling for payment from the second respondent to the tune of Rs.2,00,000/- (Rupees two lakhs only), since, the harvested cane was

hypothecated to the bank and the first charge on the sugarcane is for the bank which has to be cleared on priority. Since the second respondent failed to make payment of the sugarcane supplied to the mill, he made a representation to the Commissioner of Sugar and Cane on 15.10.2013, to take action as per the sugar control order 1966. Since no action was taken, the petitioner has filed a writ petition in W.P.No.28513 of 2014 and this Court passed an interim order on 07.01.2015, directing the second respondent to make a payment of Rs.1,00,000/- (Rupees one lakh only) on or before 12.01.2015, which amount went to the third respondent-bank and was adjusted for the minor irrigation loan installment. On 12.02.2015, this Court passed another order in the said writ petition, directing the second respondent to make adhoc payment of Rs.1,00,000/- (Rupees one lakh only) on or before 26.02.2015.

(iii) As against the order dated 12.02.2015, the second respondent preferred an appeal and the Division Bench of this Court disposed of the appeal directing the second respondent to deposit a sum of Rs.1,00,000/- (Rupees one lakh only) with the Registry of the High Court. Pursuant to the order of the Division Bench, the second respondent deposited the amount before the Registrar of this Court.

(iv) Pursuant to the orders of this Court, the first respondent conducted an enquiry on 27.10.2015 in the presence of the petitioner and the second respondent and it was found that a sum of Rs.1,46,981/- (Rupees one lakh forty six thousand nine hundred and eighty one only) was pending for payment to him by the second respondent.

(v) According to the petitioner, a sum of Rs.1,26,665/- (Rupees one lakh twenty six thousand six hundred and sixty five only) is due for payment. Out of the said amount, a sum of Rs.1,16,000/- (Rupees one lakh sixteen thousand only) has to be paid to the third respondent bank. After considering the case of the petitioner, for the year 2012-2013 and 2013-2014, the first respondent found that a sum of Rs.1,30,226/- (Rupees one lakh thirty thousand two hundred and twenty six only) is due to the petitioner and a sum of Rs.1,16,000/- (Rupees one lakh sixteen thousand only) is due to the third respondent bank.

(vi) The first respondent further found that out of the amount of Rs.1,30,226/- (Rupees one lakh thirty thousand two hundred and twenty six only), a sum of Rs.1,00,000/- (Rupees one lakh only) was deposited with the bank, pursuant to the order of this Court. Hence, the balance payment of Rs.30,226/- (Rupees thirty thousand two hundred and twenty six only) has to be paid to the petitioner by the second respondent.

(vii) According to the petitioner, out of the amount of Rs.30,226/- (Rupees thirty thousand two hundred and twenty six only), a sum of Rs.16,000/- (Rupees sixteen thousand only) has to be settled to the third respondent and the balance amount of Rs.14,226/- (Rupees fourteen lakhs two hundred and twenty six only) has to be paid to him by the second respondent. Out of the sum of Rs.1,00,000/- (Rupees one lakh only), deposited into Bank, a sum of Rs.65,931/- has to be adjusted against the loan amount and the balance of Rs.34,069/-, which is the difference of SAP amount, has to be kept under the deposit until the disposal of the writ petition in W.P.No.28620 of 2014, filed by the SISMA.

4. The brief case of the first respondent is as follows:-

According to the first respondent, the cane price payable to the petitioner including the interest for delay in payment of fair and remunerative price have been accepted by the petitioner and there is pending of State Advised Price of Rs.34,069/-, which is kept in deposit of the third respondent, which was also the subject matter in W.P.No.28260 of 2014, pending on the file of this Court.

5. The third respondent has stated that the petitioner cannot take a defence that the loan amount could not be serviced due to non-payment of cultivation amount by the second respondent. Further, the third respondent has stated that the bank has kept a sum of Rs.34,069/- in the sundry account as per the order of this Court in W.P.No.38797 of 2015.

6. As per the proceedings of the first respondent dated 05.11.2015, a sum of Rs.1,30,226/- (Rupees one lakh thirty thousand two hundred and twenty six only) was due and payable to the petitioner by the second respondent. For the year 2012-2013 and 2013-2014, the loan amount payable by the petitioner to the third respondent was Rs.1,16,000/- (Rupees one lakh sixteen thousand only). Out of the total payment due to the petitioner, i.e., Rs.1,30,226/-, after deducting a sum of Rs.1,00,000/- towards the cash deposit, which was already made pursuant to the orders of this Court, the balance payment of Rs.30,226/- was to be paid to the petitioner by the second respondent. Out of this Rs.30,226/- due to the petitioner, a sum of Rs.16,000/- was settled to the third respondent as against his loan and the balance amount was arrived at Rs.14,226/- to be paid by the second respondent.

7. By order dated 07.01.2016, this Court directed the Second respondent to pay a sum of Rs.14,226/- to the petitioner within a week. Subsequently, when the matter came up on 20.03.2016, the petitioner submitted before this Court

that he had no objection for adjusting a sum of Rs.16,000/- towards his loan to the third respondent.

8. The third respondent in their counter has stated that a sum of Rs.34,069/- is kept in Sundry account as per the orders of this Court, pending disposal of W.P.No.28620 of 2014 filed by the SISMA, which is pending on the file of this Court.

9. Since the third respondent had kept the amount in the sundry account, I am of the view that the said amount can be adjusted towards the loan amount subject to the result of the writ petition in W.P.No.28620 of 2014.

10. The petitioner, who is appearing in person, has stated that the second respondent should be directed to pay compensation for making the payment belatedly. However, the petitioner has not produced any agreement between himself and the second respondent to show that the second respondent is liable to pay the compensation, in the event of belated payment.

11. In these circumstances, I am of the view that the petitioner can workout his remedy with regard to the delayed payment for compensation before the competent Civil Court, in accordance with law. Since entire payment has been made by the second respondent and no amount is due as of today, I do not find any merits in the writ petition. This writ petition is liable to be dismissed. Accordingly, the same is also dismissed. No costs. Consequently, connected Miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

abr/Rj

To

1.The Commissioner of Sugar and Cane
State of Tamil Nadu
Nandanam, Chennai - 600 035.

2.The Senior General Manager,
Shree Ambika Sugars Limited,
Factory at Eraiyur Village, Pennadam (RS) (PO),
Tittagudi Taluk, Cuddalore Dist. - 606 111.

3.The Branch Manager,
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Pennadam (RS) (PO), Tittagudi Taluk,
Cuddalore District - 606 11.

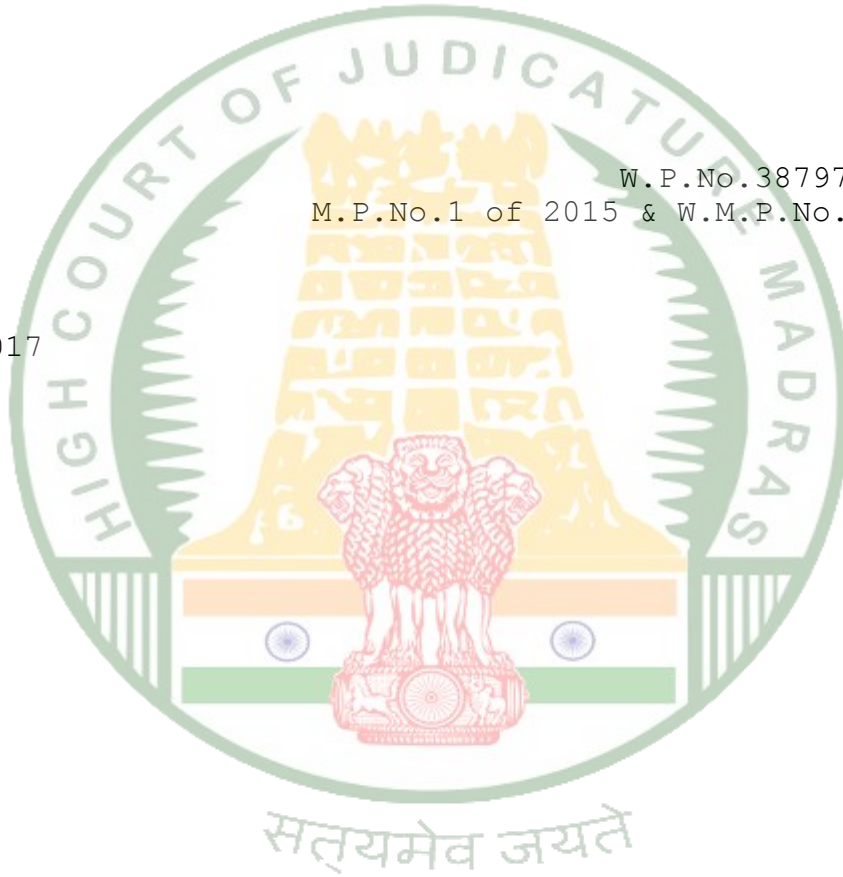
+1 cc to the Government Pleader High Court Madras
sr 43094

+1 cc to M/s.Sathish Parasaran Advocate sr 42744

+1 CC to Mr.N.Radhakrishnan, Advocate sr 41942 (30/06/2017)

ss (co)
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M.P.No.1 of 2015 & W.M.P.No.674 of 2017



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