

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 30.11.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.674 of 2016 and
C.M.P.No. 8922 of 2016

- 1.The Principal Secretary to Government,
Handlooms, Handicrafts, Textiles and Khadi (C1) Department,
Government of Tamil Nadu,
Fort. St. George,
Chennai 600 009.
- 2.Government of Tamil Nadu
Rep. by its Secretary,
Finance Department,
Fort St. George,
Chennai 600 009.
- 3.The Commissioner,
Handlooms and Textiles,
Kuralagam,
Chennai 600 108.Appellants

Vs.

- 1.New Sarika Cotton Traders,
Rep. by its Managing Partner,
K.V.Prasad, No.3-29-13/28, 6th line,
Krishna Nagar,Guntur 522 006.
Andhra Pradesh.
- 2.The Administrator,
South India Co-operative Spinning
Mills Limited.,
Pettai, Tirunelveli District. ...Respondents

Prayer:- Writ Appeal filed under clause 15 of Letters Patent,
against the order made in W.P.No.4871 of 2014 dated
13.10.2015.

WP.No.4871 of 2014:Petition filed under Article 226 of the
Constitution of India for the issuance of a writ of mandamus,
directing the respondents to consider the case of the
petitioner and effect payment of the amount due to the
petitioner in a sum of Rs.73,67,223/- with further interest at
14% per annum as requested under letter of the petitioner
dated 29.11.2013 to the 3rd respondent in terms of payment
effected to similar suppliers pursuant to G.O.Ms.No. 169

Handlooms Handicrafts Textiles and Khadi (C1) Department
dated 25.7.2013 issued by the 1st respondent

For Appellant : Ms.A.Srijayanthi
Special Government Pleader
For Respondents: Mr.P.Krishnan for R1
No appearance for R2

J U D G M E N T

K.K. SASIDHARAN, J.

This intra Court Appeal is directed against the order dated 13 October 2015 in W.P.No.4871 of 2014, whereby and where under, a Writ of Mandamus was issued by the learned Single Judge, directing the appellants and the Administrator, South India Co-operative Spinning Mills Limited, Pettai to pay the amount due to the first respondent on account of supply of yarn along with the interest.

2. The learned Special Government Pleader submitted that the Spinning Mill is not liable to pay the amount claimed by the first respondent for the simple reason that only a hand loan was given by the cotton trader and it was shown in the accounts maintained by the mill in question. According to the learned Special Government Pleader, the first respondent earlier filed a writ petition in W.P.No.25420 of 2004 and it was withdrawn without liberty. The learned Special Government Pleader therefore contended that the subsequent writ petition filed by the first respondent is legally not maintainable.

3. The learned counsel for the first respondent, on the other hand submitted that there is a clear admission in the counter affidavit filed by the Administrator with regard to the amount due to the first respondent and as such, the contra contention has absolutely no basis.

4. The first respondent initially filed a writ petition in W.P.No.25420 of 2004 for issuance of a Writ of Mandamus, directing the appellants and the Administrator, South India Co-operative Spinning Mills Limited, Pettai, to pay a sum of Rs.28,34,550/- along with the interest at the rate of 18% per annum. The writ petition was dismissed as withdrawn by order dated 9 June, 2016. It was a simple dismissal on the basis of the statement made by the counsel for the writ petitioner without liberty to file a fresh writ petition.

5. The first respondent filed another Writ Petition in W.P.No.4871 of 2014, claiming the very same amount with interest at 14% per annum, which was the subject matter of the Writ Petition in W.P.No.25420 of 2004. The claim was made on the basis of the Government Order in G.O.Ms.No.169 Handlooms, Handicrafts, Textiles and Khadi Department, dated 25 July 2013, whereby and where under, the Government directed payment of amount due to the cotton suppliers.

6. The learned Single Judge allowed the Writ Petition by taking into account the counter affidavit filed by the second respondent, admitting the liability. Though a claim was made by the first respondent for payment of interest, the fact remains that the learned Single Judge has not passed a specific order directing the second respondent to pay interest.

7. When the appeal is taken up for hearing, the learned counsel for the first respondent, on instructions, submitted that the second respondent paid the entire principal amount to the first respondent and the liability now is only to pay the interest.

8. There is no question of directing payment of interest in a writ petition filed for a Writ of Mandamus claiming money. The first respondent placed reliance on the earlier order dated 28 August 2015 in W.A.Nos.525 to 532 of 2015 for sustaining the claim for interest. Since, there was no mandamus issued by the learned Single Judge for payment of interest, we are of the view that the issue cannot be decided in this appeal.

9. The second respondent has already paid the principal amount. In case, the first respondent is aggrieved by the act of non-payment of interest, it is always open to file a civil suit for the said relief or to take up the issue with the second respondent.

10. The writ appeal is disposed of with the above observation. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Handlooms, Handicrafts, Textiles and Khadi (C1) Department,
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3.The Commissioner,
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+1cc to Government Pleader SR.No.85862

ss (Co)
sm:3.1.2018

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& C.M.P.No.8922 of 2016
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