



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
AND
THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A. [MD] .No.871 of 2017
and
C.M.P (MD) No.5820 of 2017

1.The Managing Director,
Tamil Nadu Handloom Weavers'
Co-operative Society Ltd.,
Head Office, Panthiyan Road,
Chennai.

2.The Regional Manager,
Tamil Nadu Handloom Weavers'
Co-operative Society Ltd.,
Andal Street, Alagappan Nagar,
Madurai-625 003.

: Appellants/Petitioners

Vs.

B.Shanthi.

...Respondent/Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 09.02.2017 made in W.P.(MD).No.166 of 2009 on the file of this Court.

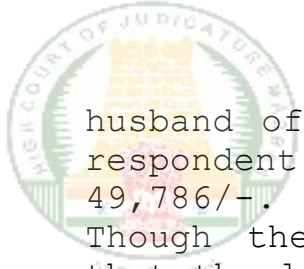
Prayer in WP(MD). 166/ 2009 :

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 2nd respondent in RC/Theni Co-optex/Debt Recovery pending/2007/J, dated 17.4.2007 and quash the same in so far as fastening liability on the petitioner's deceased husband late P.Balasubramanian, employed as Manager Grade- III and consequently direct the respondents herein to disburse the death-cum-terminal benefits of Rs. 4,60,621-20 to the petitioner on the death of here husband together with interest at 12% pa., and all the arrears within a reasonable time.

For Appellants : Mr.M.P.Senthil

<https://hcservices.ecourts.gov.in/hcservices/>
For Respondent

: Mr.K.Appadurai.



husband of the respondent herein. The appellants admit that the respondent's husband has settled the staff society dues of Rs. 49,786/-. The remaining amount recoverable is Rs.12,895/-. Though the respondent contested the same, considering the fact that the late husband passed away in the year 2006, we direct that the said amount can be recovered from the amount payable to the respondent. In other words, the appellants are entitled to deduct a sum of Rs.12,895/- from out of sum of Rs.4,60,621.20ps., and disburse the remaining sum of Rs.4,47,726.20ps., to the respondent within a period eight weeks from the date of receipt of a copy of this Judgment. This direction will put an end of the dispute between the parties. It is made clear that no further recovery can be made from the respondent nor the respondent can demand any further claim against the appellant's society. With regard to grant of interest, the Writ Court did not assign any specific reason as to why the interest has to be awarded. Merely because, there is a delay in disbursement of amount that by itself cannot be the reason for the grant of interest as ordered by the Writ Court as it is a penal levying and there should be a specific finding as why interest is payable. Further the reason for setting aside the order of recovery was on account of the decision rendered by this Court in the case of **Manimozhiyal (cited supra)** that on account of a legal interpretation. Therefore, the respondent was granted relief by virtue of such legal interpretation. Hence, we are of the view the respondent is not entitled for the interest on the said amount as ordered by the learned Single Judge.

8. In the result, this Writ Appeal is partly allowed and the appellants are entitled to deduct a sum of Rs.12,895/- from Rs.4,60,621.20ps., and disburse the remaining sum of Rs.4,47,726.20ps., within two weeks from the date of receipt of a copy of this judgement. The order directing payment of interest is set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

1. The Managing Director,
Tamil Nadu Handloom Weavers'
Co-operative Society Ltd.,
Head Office, Panthiyan Road,



2. The Regional Manager,
Tamil Nadu Handloom Weavers'
Co-operative Society Ltd.,
Andal Street, Alagappan Nagar,
Madurai-625 003.

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+1 cc to Mr.M.P.Senthil , Advocate in SR.No. 62974
+1 cc to Mr.K.Appadurai , Advocate in SR.No. 62945

Myr/ia
AE/KP/SAR3/09.08.2017/4P/5C

JUDGMENT MADE IN
W.A. [MD] .No.871 of 2017
and
C.M.P (MD) No.5820 of 2017
30.06.2017