

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.29938 of 2018
and WMP.Nos.34950 and 34951 of 2018

M/s.Geetha Ramakrishnan Mills (P) Ltd.,
Rep. by its Director
Jalakantapuram
Salem 636 501

..Petitioner

Vs

Employees Provident Fund Organization
Rep. by its Assistant Commissioner
& Recovery Officer
Sub Regional Office
S.J.Plaza
Swarnapuri
Salem 636 004

..Respondent

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus seeking to quash the order of the respondent dated 28.06.2018 bearing No.CB/SLM/17512/RECY/S2/2018 and consequently to direct the respondent to permit the petitioner to pay the dues towards interest and damages amounting to Rs.31,31,826/- by selling machineries, by leasing the godown and by selling the part of the Mill Lands in a phased manner as determined by this Court.

For Petitioner : Mr.Balan Haridas

For Respondent : Mr.R.Thirunavukarasu
Standing counsel for EPF.

ORDER

By consent of the learned counsel on either side, this Writ Petition is taken up for final disposal.

2. The Prayer in the Writ Petition is to quash the order of the respondent dated 28.06.2018 bearing No.CB/SLM/17512/RECY/S2/2018 and consequently to direct the respondent to permit the petitioner to pay the dues towards

interest and damages amounting to Rs.31,31,826/- by selling machineries, by leasing the godown and by selling the part of the Mill Lands in a phased manner as determined by this Court.

3. The learned counsel for the Petitioner submits that in view of the fact that the Petitioner Mill was not running, the contribution to the respondent organization could not be made. There had been delay in making the contribution and in respect of which there had been proceedings claiming interest for the delayed payment. The interest dues was crystallized in the order passed in ATA No.177(13)2013 dated 16.10.2014 and thereafter, the petitioner was permitted to remit the dues in installments. Further in respect of interest on the delayed payment for other period, the respondent had issued order dated 15.12.2015 for Rs.2,57,323/- and another order dated 15.12.2015 for damages for Rs.4,62,669/-. Further there was an outstanding of Rs.24,11,834/- towards interest. Thus the total outstanding was Rs.24,11,834/- towards interest under the earlier proceedings and Rs.2,56,323/- towards interest and due of Rs.4,62,669/- towards damages. Thus the total outstanding is Rs.31,31,826/-.

4. The learned counsel for the Petitioner/company has filed the affidavit before this court seeking permission to sell the movable machineries and immovable properties to settle the outstanding dues to the respondent/EPF.

5. It is stated in the affidavit that the total outstanding towards interest and damages to the respondent is Rs.31,31,826/-. There are 10 spinning frames available in the Mill and if the Petitioner is permitted to sell the same, it will fetch around Rs.17 lakhs and the petitioner will pay the same towards the outstanding to the respondent. Further there are surplus lands and if a portion of the same is permitted to be sold by the petitioner, the remaining outstanding to the respondent can also be cleared. The land in Survey No.124/1B Part, 124/2A Part, 121/1A and 121/3A, Surapalli Village, Mettur Taluk, Salem District, measures about 1 acre and the market value is about Rs.50 lakhs.

6. Further, it is submitted by the learned counsel for the Petitioner, if permission is granted to sell the land and machineries, the arrangements made in the present Writ Petition, would not bind any third party in the event of any charge over the aforesaid machineries and properties.

7. The learned Standing counsel for the respondent submits that the EPF is very concerned about the recovery of amount of Rs.31,31,826/- towards interest and damages from the Petitioner; if the Petitioner is bonafide to settle the amount and if there is no legal impediment, the Petitioner can approach the third parties to sell the said machineries and pay the sale amount to the respondent/EPF subject to certain conditions imposed by this Court.

8. In view of the above submissions made by both parties and the affidavit filed by the Petitioner, without prejudice to the rights of the third party, this court deems it fit to pass the following order:-

(1) The Writ Petitioner shall make application to the respondent by requesting to sell the Spinning Frames by furnishing all the particulars of proposed purchaser and the consideration amount to sell the spinning frames and its land properties within one week and also file an affidavit of undertaking that there shall be no charge over the subject matter of movable and immovable properties.

(2) On satisfaction of the said application, the respondent is directed to grant permission to sell the machineries as mentioned in the affidavit to one M/s.KSR Steels for the consideration amount of Rs.17 Lakhs. The said amount shall be paid to the respondent/EPF by way of Demand Draft at the time of entering the sale proceedings.

(3) On receipt of the sale amount, the respondent shall issue No Objection Certificate to the Petitioner to remove the machineries from the Petitioner Mill Premises. Insofar as the land is concerned, as mentioned in the affidavit, the Petitioner has to place the sale agreement along with the balance amount of Rs.14,31,826/- to the respondent to sell the land. On receipt of the said balance amount, the respondent shall issue No Objection Certificate to the Petitioner so as to enable the Petitioner to execute the sale deed in favour of one Mr.S.P.Ramar/third party.

(4) The aforesaid directions is binding only in respect of the parties concerned in the present Writ Petition and if any charge over the property, this order will not bind the concerned parties and would not be applicable to them.

(5) The learned counsel for the Petitioner undertakes to settle the entire due amount to the respondent within four weeks from the date of receipt of a copy of this order.

In fine, the Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/--

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

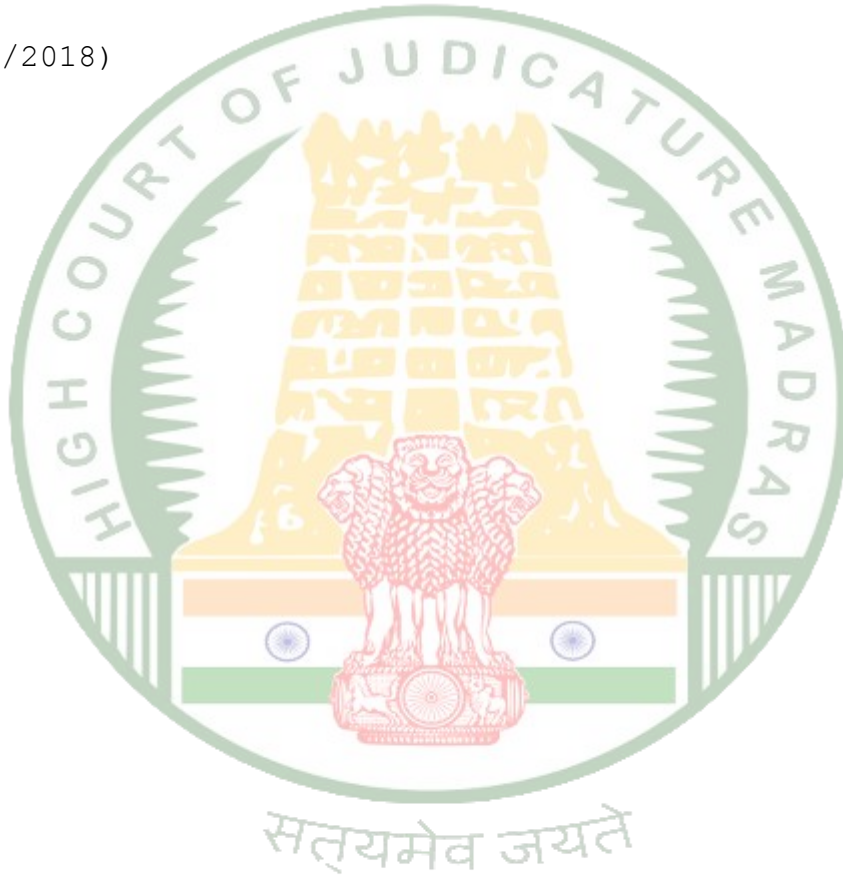
To
The Assistant Commissioner
& Recovery Officer
Employees Provident Fund Organization
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S.J.Plaza
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Salem 636 004

+1cc to Mr. Balan Haridas, Advocate SR.No. 88428

+1cc to Mr.R.Thirunavukarasu , Advocate SR.No. 88188

WP.29938 of 2018

ASK(20/12/2018)



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