



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.135 of 2015 and
W.P.(MD)No.1304 of 2014
and
M.P.(MD)No.1 and 2 of 2015 and
M.P.(MD)No.1 and 2 of 2014

MD Spl 58 Kallupatti Primary
Agricultural Co-operative Society
represented by its Secretary
Mathippanur Post,M.Kallupatti
Thirumangalam Taluk
Madurai District

... Petitioner in both WPs.

Vs

1.The Recovery Officer,
Employees Provident Fund Organization,
Regional Office,
Ministry of Labour-Govt.of India,
Lady Doak College Road,
Chokkikulam
Madurai-625 002.

2.The Assistant Provident Fund Commissioner
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai-625 002.

... 1st and 2nd Respondents in both W.P.s

3.The Manager,
Madurai District Central Co-operative Bank,
Thirumangalam Branch,
Madurai.

... 3rd Respondent in W.P.(MD)No.135 of
2015

PRAYER in W.P.(MD)No.135 of 2015: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed by the first respondent made in Ref.No.M7/TN/MDU/29115/RECY/ RO/2012 dated 11.01.2012 and quash the same.

PRAYER in W.P.(MD)No.1304 of 2014: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling



for the records relating to the impugned auction notice dated nil issued by the first respondent published in Daily Thanthi dated 22.01.2014 and quash the same.

For Petitioner: Mr.D.Sadiq Raja
For R1 and R2 : Mr.V.S.V.Venkateswaran
(in both Writ Petitions)
For R3 : Mr.D.Shanmugaraja Sethupathy
(in W.P.(MD)No.135 of 2015)

COMMON ORDER

The writ petitioner is a Co-operative Society. It is an establishment falling within the purview of The Employee's Provident Fund and Miscellaneous Provisions Act, 1952. Since the amount determined under Section 7A of the Act was not remitted, the authorities took coercive action. The immovable property that belongs to the Society as well as its bank account were frozen. The property of the society was also brought to auction. Therefore, these writ petitions came to be filed.

2.When the matter taken up for hearing, the learned counsel appearing for the society submitted that if the society is given a breathing time, they would be able clear the dues payable to the Employee's Provident Fund Organization. In this case, the dues represented not only the amount payable under Section 7A of the Act but also the interest.

3.The learned counsel called upon this Court to direct the Employee's Provident Fund authorities to waive the interest. I am afraid I cannot accede to this. The Employee's Provident Fund authorities do not have the jurisdiction to waive the interest under Section 7Q of the Act.

4.Considering the specific facts and circumstances of this case, the attachment made in respect of the bank account will stand set aside. However, the attachment in respect of the immovable property will remain.

5.The learned counsel for the petitioner on instructions undertakes that the petitioner will not create any encumbrance on the immovable property of the Society. The writ petitioner is given ten months time from the date of receipt of a copy of this order to clear the arrears payable to the Employee's Provident Fund Organization. If even within the said period of ten months, the arrears payable to the Employee's Provident Fund Organization could not be cleared, the Recovery Officer shall bring the immovable property to auction.

6.The learned counsel for the petitioner further undertakes that the petitioner will not apply for any extension of time.



7. Accordingly, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(cs-I)

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Sub Assistant Registrar(cs-III)

To

1. The Recovery Officer,
Employees Provident Fund Organization,
Regional Office,
Ministry of Labour-Govt. of India,
Lady Doak College Road,
Chokkikulam
Madurai-625 002.
2. The Assistant Provident Fund Commissioner
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam,
Madurai-625 002.

+1cc to Mr.D.Sadiq Raja Advocate in SR.No.100838
+2cc to Mr.V.S.V.Venkateswaran Advocate in SR.No.101157,101158
+1cc to Mr.D.Shanmugaraja Sethupathy Advocate in SR.No.101212

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