

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

W.A.No. 551 of 2013

&

M.P.Nos. 1 & 2 of 2013

1.R.Santhamoorthy Appellant/Petitioner

-vs-

1.The Principal District Judge
(Co-operative Tribunal)
Chengalpattu,
Kancheepuram District.

2.The Deputy Director of Handlooms
and Textiles, Kancheepuram,
Kancheepuram - 631 502.

3.The Special Officer
Kancheepuram Pillayarpalayam
Seeyamangalampettai Handloom
Weaver's Co-operative Society,
Seeyamangalampettai Village & Post
Kancheepuram District

4.Rathinavelu Respondents/Respondent

Write Appeal filed under Clause 15 of Letter Patent against the order in W.P.No.10078 of 2004 dated 11.12.2008 on the file of the High Court of Judicature at Madras.

WP.NO.10078/2004:

Writ Petition filed under Article 226 of the Constituion of India praying for the issuance of a Writ of Certiorari calling for the records relating to the proceedings of the first and Second respondents made in Civil Miscellaneous Appeal(CO-OP)

NO.22/1999 dated 28.02.2004 and R.C.No.2071/98/C dated 03/11/1999 and quash the same.

For Appellant : Mr.G.Devadoss
For Respondent 1 : Tribunal
For Respondent 2 : Mr.L.P.Shanmuga Sundaram
Special Government Pleader
For Respondent 3 : Mrs.P.Rajalakshmi
For Respondent 4 : No Appearance

J U D G E M E N T

[Judgment of the Court was delivered by P.T.ASHA,J.]

This Intra-Court appeal is filed challenging the order passed in W.P.No.10078 of 2004. The brief facts which are necessary for disposal of the above Writ Appeal are as follows:

2.The Surcharge proceedings were initiated against the appellant under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, by an order dated 03.11.1999. The appellant was directed to pay a sum of Rs.7,46,702.39/-, which, according to the 2nd respondent was the loss that was caused to the 3rd respondent's Society on account of the credit sales that had been effected to one E.Rathinam.

3.The appellant herein had challenged the said order by filing C.M.A (Co-op) No.22/99 on the file of the Principal District Judge, Chengalpattu. The learned District Judge by Judgement dated 28.02.2004, was pleased to dismiss the appeal and confirmed the order passed by the 2nd respondent. Feeling aggrieved by the said order the appellant had approached this Court by filing above Writ Petition.

4.The learned Single Judge of this Court relying upon the Judgement reported in (2008) 8 MLJ 231 - S.V.K.Sahasramam Vs. Deputy Registrar of Co-operative Societies, Tiruvannamalai Circle, Tiruvannamalai and others, dismissed the Writ Petition. Challenging the said order the appellant is before this Court.

5.Meanwhile, it is seen that the said Rathinam had paid up the entire sum of Rs.6,25,000/-. It is also seen that the 3rd respondent society had issued a final settlement receipt to the

said E.Rathinam stating that they have received the entire amount towards settlement and that they would not initiate any legal action against him. The said receipt has been issued on 13.04.2007.

6.Further in the appeal filed by the said V.Rathinavelu in C.M.A.No.70 of 2010 on the file of the District Judge, District Court-II, Kancheepuram (Special Tribunal for Co-operative cases), the learned Judge had passed an order that since the entire amount had been paid by the said Rathinam there was no further liability against the appellant herein as well as the person who was arrayed as 3rd respondent there and that the entire due had been settled.

7.In the light of the facts narrated above and the 3rd respondent Society having received the entire amount, as also the order in C.M.A.No.70 of 2010 having attained finality, the 3rd respondent Society cannot proceed further against the appellant.

8.The learned counsel for the appellant had produced the letter dated 21.06.2019, wherein the 3rd respondent had demanded a sum of Rs.1,69,972.39 towards the dues.

9.In view of the categorical finding given by the learned District Judge, in C.M.A.No.70 of 2010 the 3rd respondent cannot be permitted to proceed further with the letter dated 21.06.2019.

The Writ Appeal is allowed and the order passed in the Writ Petition is set aside. There shall be no order as to Costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To,

1.The Principal District Judge
(Co-operative Tribunal)
Chengalpattu,
Kancheepuram District.

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2.The Deputy Director of Handlooms
and Textiles, Kancheepuram,
Kancheepuram - 631 502.

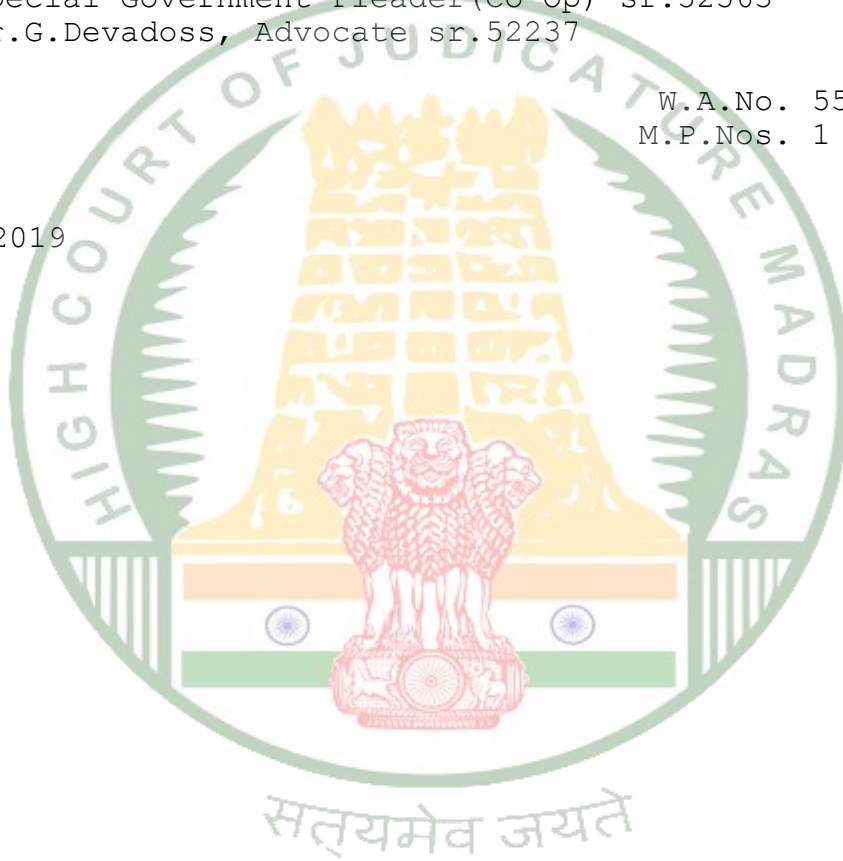
3.The Special Officer
Kancheepuram Pillayarpalayam
Seeyamangalampettai Handloom
Weaver's Co-operative Society,
Seeyamangalampettai Village & Post
Kancheepuram District

+1cc to Special Government Pleader(Co-Op) sr.52563

+1cc to Mr.G.Devadoss, Advocate sr.52237

W.A.No. 551 of 2013 &
M.P.Nos. 1 & 2 of 2013

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