

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.7183 of 2019
and WMP No.7903 of 2019

Erode, Kodumudi and Modakurichi Taluk
Rice Mill Owners Association
217/3, Karur By-pass Road
Kollampalayam
Erode 638 002
rep.by B.Kandasamy, M/57 years
President of the Association

... Petitioner

-vs-

1. The State of Tamil Nadu
rep.by its Secretary to Government
Secretariat, Fort St.George
Chennai 600 009
2. The Commissioner of Agricultural Marketing
& Agri Business
Thiru Vi.Ka.Industrial Estate
Guindy, Chennai 600 032
3. The Secretary
Erode Market Committee
233, Vithya Nagar, Thindal
Erode 638 012
4. The Superintendent
Regulated Market
Elumathur, Erode District
5. The Superintendent
Regulated Market
Sivagiri, Erode District
6. The Superintendent
Regulated Market
Kodumudi, Erode District
7. The Superintendent
Regulated Market
Boothapadi, Erode District

8. The Superintendent
Regulated Market
Bhavani, Erode District

9. The Superintendent
Regulated Market
Chithode, Erode District

10. The Superintendent
Regulated Market
Gobichettipalayam, Erode District

11. The Superintendent
Regulated Market
Kavunthappadi, Erode District

12. The Superintendent
Regulated Market
Perundurai, Erode District

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Declaration, to declare the demand and forcible collection of market fee in respect of agricultural produce Paddy for the transactions of purchase and sales by the members of the petitioner Association notwithstanding any notification under the Act 1987 as illegal, arbitrary, ultra vires and without jurisdiction and to forbear the respondents from resorting to demand and collect market fee for sale and transactions of paddy from the individual cultivators being not members of any Market Committee and also outside the yards allotted by such Market Committee.

For Petitioner : Mr.V.Raghupathi

For Respondents: Mr.V.Jayaprakash Narayanan
Government Pleader In-charge/
Special Government Pleader

ORDER

This writ petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ of declaration, declaring the demand and forcible collection of market fee in respect of agricultural produce Paddy for the transactions of purchase and sales by the members of the petitioner-Association notwithstanding any notification under the Act 1987 as illegal, arbitrary, ultra vires and without jurisdiction and to forbear the respondents from resorting to demand and collection of market fee for sale and transactions of paddy from the

individual cultivators being not members of any Market Committee and also outside the yards allotted by such Market Committee.

2. The learned Government Pleader in-charge for the respondents submitted that the issue raised in the present writ petition has already been considered by the Division Bench and this Court has also passed an order on 11.2.2019 in W.P.Nos.3918 and 3946 of 2019 rejecting a similar prayer.

3. In view thereof, since the issue raised in the present writ petition is no longer res integra, as I have also considered the same in W.P.Nos.3918 & 3946 of 2019 dated 11.2.2019 (V.Keerthana and another v. The State of Tamil Nadur represented by its Secretary, Agricultural Department, Chennai and others), holding, in paragraphs-2 & 3, as follows,

"2. When the matter is taken up, Mr.V.Jayaprakash Narayanan, learned Government Pleader (Incharge) appearing for the respondents, by relying on the judgment of the Hon'ble Division Bench of this Court in Thiruvarur Agricultural Marketing Committee and others Vs. State of Tamil Nadu and others [MANU/TN/3319/2015], stated that a similar prayer as that of the prayer in the writ petitions has already been rejected in the above said judgment, therefore, by following the said judgment, the present writ petitions also may be dismissed. For better appreciation, paragraph No.36 of the said judgment is extracted below:-

"36.The question as to whether a particular item is a notified agricultural produce, the question as to whether it was bought and sold in a notified market area and the question as to whether the notified agricultural produce was brought into the notified area only for the purpose of processing or for the purpose of export are all questions of fact, which have to be decided as and when the occasion arises and at the time of every transaction. In a writ petition under Article 226, such disputed claims are not open to scrutiny. Therefore, the writ petitioners cannot seek a Mandamus on the ground that they are buying and selling notified agricultural produce outside the notified market area. Whether or not, the writ petitioners are buying and selling the notified agricultural produce outside the

notified area is a question of fact, on which, no adjudication can be made by this Court for the purpose of issuing a Mandamus to forbear the respondents from enforcing the provisions of the Act."

3. In view of the above, since a similar prayer has already been rejected by the Hon'ble Division Bench of this Court in the judgment cited supra, by following the said judgment, the present writ petitions are also dismissed. No Costs.",

this writ petition fails and the same stands dismissed. Consequently, W.M.P.No.7903 of 2019 is also dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
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Chennai 600 009
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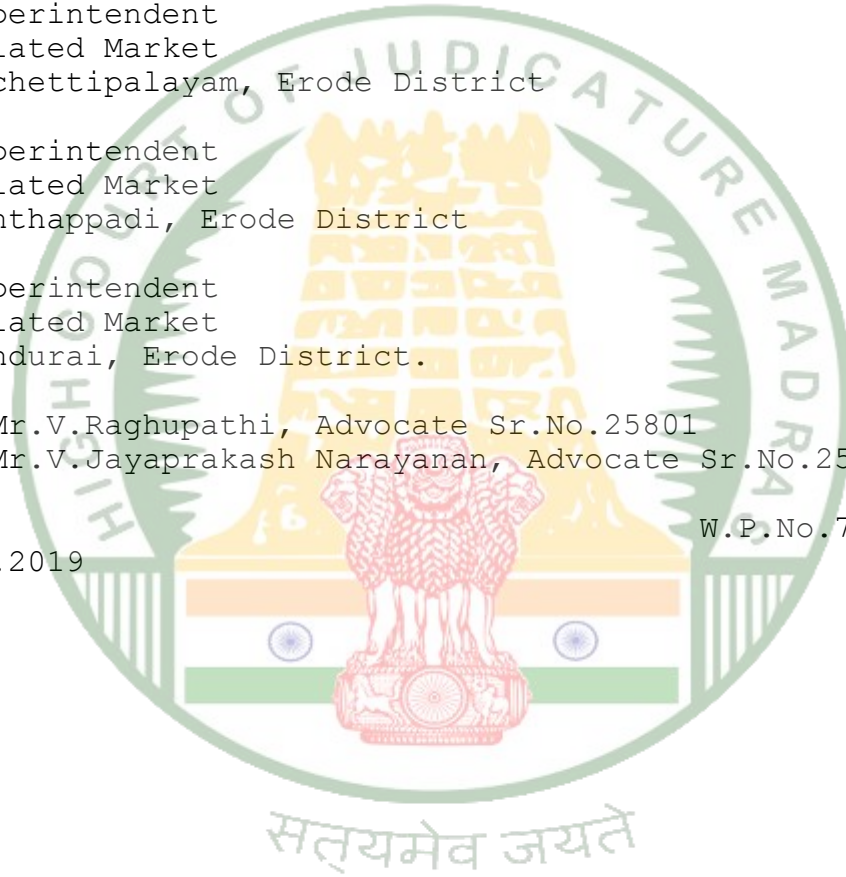
12. The Superintendent
Regulated Market
Perundurai, Erode District.

+1 cc to Mr.V.Raghupathi, Advocate Sr.No.25801

+1 cc to Mr.V.Jayaprakash Narayanan, Advocate Sr.No.25324

CSL/12.04.2019

W.P.No.7183 of 2019



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