

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2019

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THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.7014 of 2003

G.Chandrasekaran
Special Officer
Pudur Agricultural Producer's
Co-op Marketing Society Ltd., 0.857
Pudur (Post) 628 905
Vilathi Kulam Taluk
Tuticorin District

...Petitioner

Vs.

1.The Govt. of Tamil Nadu
Ministry of Handloom, Handicrafts
Textiles and Khadi rep. by its
Secretary, Handlooms and Textiles
Dept. Fort St. George, Chennai-9.

2.The Secretary to Government
Finance Department
Fort St. George, Chennai-9

3.The Director of Handlooms and
Textiles, Kuralagam Second Floor
Chennai 600 108

4.The Administrator
South Indian Co-operative Spinning Mills Ltd.,
Pettai, Tirunelveli-627 010

... Respondents

Prayer: The writ petition filed under Article 226 of the
Constitution of India, to issue a writ of Mandamus, to direct the 4th

respondent to pay to the petitioner the balance amount of Rs.8,06,951/- with interest for the sale of the cotton made to them.

For Petitioner : Mr.K.Senthil Kumar

For Respondents : Mr.R.Bala Ramesh, Spl. G.P.
for (Co-op) for R1 to R3

Mr.S.K.Rameshwar for R4

ORDER

The writ petition has been filed by the petitioner under Article 226 of the Constitution of India, to issue a writ of Mandamus, to direct the 4th respondent to pay to the petitioner the balance amount of Rs.8,06,951/- with interest for the sale of the cotton made to them.

2.The case of the petitioner is that the petitioner is the Special Officer of Pudur Agricultural Producer's Co-op Marketing Society Limited, which is registered under Co-operative societies Act. The petitioner purchase cotton from the farmers and Ginning it and sell it to the spinning mills. In the course of its business, the petitioner Society supplied boras of cotton lint to the 4th respondent. However, the 4th respondent had only paid major portion of the outstanding and failed to settle the entire balance. Hence, for non payment of due, the petitioner made written representations to the 4th respondent and to

other respondent officials on 29.07.2002 and 01.10.2002. The respondent officials have not come forward or taken any steps to recover the outstanding amount from the 4th respondent and pay the same to the petitioner society. The writ petition is filed in the year 2003. Even till date, the amount due was not paid to the petitioner society. Hence, the petitioner is before this Court.

3.The learned Special Government Pleader for Co-Operatives would submit that the liquidation proceedings have been carried out and the Assets of the Mills have been distributed among its creditors.

4.The learned counsel appearing for the 4th respondent would submit that the principal amount has already been paid and only the interest amount could not be paid to the petitioner society. The 4th respondent also filed an affidavit before this Court. The relevant paragraphs are extracted hereunder:

6.It is submitted that the above sum of Rs.8,02,716/- has been sent by way of cheque with the letter dated 05.02.2015. The said letter has been sent by Registered Post with Acknowledgment due. The same has been received by the petitioner on 09.02.2015.

7.It is therefore submitted that the amount that is due to the petitioner has been settled as above and nothing remains to to be paid to the petitioner society.

8.It is submitted that there is no further amount available with this respondent after the liquidation proceedings and no further amount can be paid to the petitioner by this respondent towards any account.

9.Further, the claim of the petitioner is barred by limitation in terms of the Limitation Act 1963 as no claim was made within 3 years either from the date of last transaction or from the date of disposal of W.P.No.7014 of 2003 on 10.02.2009.

10.It is further submitted that in the matter settlement dues by Co-operative Spinning Mill in a similar case the First Bench of High Court, Madras in Writ Appeal No.1642 of 2001 and Writ Petition No.12316 of 1999 held "there is controversy about the payment due to them and hence "we are of the opinion that this court under Articles 226 cannot properly decide this Controversy.". Hence, the money claim set forth by the petitioner through this Writ petition surpassing the remedies provided in the Tamilnadu Co-operative Societies Act and Rules is devoid of merits and the petitioner is not entitled to any relief as prayed for.

5.In view of the above submissions made by the 4th respondent, nothing survives in this petition for further adjudication. As the 4th respondent mill is not functioning and the same has already

been closed, this court is not inclined to issue any further direction to the Administrator.

6.This writ petition stands closed accordingly. The petitioner is granted liberty to work the remedy in the manner known to law. No costs. Consequently, connected miscellaneous petition if any is closed.

24.06.2019

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Index : Yes / No

Internet : Yes / No

Speaking /Non Speaking order

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M.DHANDAPANI, J.
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