

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30381 of 2012

and

M.P.No.1 of 2012

- 1.The Special Officer,
Ariyalur Agricultural Producers Co-operative Marketing
Society,
Ariyalur.
- 2.The Deputy Registrar of Co-operative Societies,
Office of the Deputy Registrar of Co-operative Societies,
Ariyalur. ... Petitioners
- Vs.
- 1.Kandan
- 2.The Principal District Court at Ariyalur,
District Court Complex,
Ariyalur. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the second respondent dated 12.03.2012 in C.M.A.C.S No.21 of 2011 and quash the same with the further direction to the first respondent to pay the arrears of the amount as adjudged in the order of the first petitioner dated 22.03.2010.

For Petitioners : M/s.L.P.Shanmugasundaram

For Respondents : M/s.K.Subburam for R1
R2 - Court

O R D E R

The petitioners in this writ petition are the Ariyalur Agricultural Producers Co-operative Marketing Society represented by its Special Officer and the Deputy Registrar of Co-operative Society, Ariyalur. The first respondent was erstwhile Secretary of the first petitioner Co-operative Society. Upon attaining the age of superannuation, the first respondent was not paid the gratuity amount and therefore, he raised a dispute on the file of the second petitioner under Section 90 (1) (c) of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter 'the Act' for brevity). Several grounds were raised by the first respondent and sought for a decree against the first petitioner/Society to the tune of Rs.1,79,228/- together with the interest being gratuity amount and other dues payable to the first respondent after attaining the age of superannuation. The second petitioner by an order dated 22.03.2010 rejected the claim petition and passed an award. The reasoning given by the second petitioner in his order dated 22.03.2010 is that surcharge proceedings have been initiated against the first respondent and is due and liable to pay a sum of Rs.1,86,886/- apart from that there are other dues payable to Thrift Society towards vehicle loan. The first respondent preferred an appeal before the Second Respondent Tribunal in C.M.A.C.S.No.21 of 2011, which was allowed by an order dated 12.03.2012 which is challenged in this writ petition by the petitioners Society and the Deputy Registrar.

2. Though this writ petition has been filed under Article 226 of the Constitution of India, in the light of the recent decision of the Hon'ble First Bench, this writ petition is converted to a petition under Article 227 of the Constitution of India. So far as the surcharge amount is concerned, the first respondent had challenged the order of surcharge dated 22.03.2010 before Tribunal in C.M.A.C.S.No.20 of 2011 and the same was allowed by judgment dated 05.10.2012 and the order of surcharge has been set aside. The said judgment having attained finality, the said contention cannot be put against the first respondent. With regard to the other dues namely Thrift Society, vehicle loan etc., the first respondent is bound to pay the same, if not already paid or deducted.

3. The learned counsel appearing on behalf of the first respondent on instructions submitted that the entire dues have been recovered. Thus what remains to be paid to the first respondent is only the gratuity amount. The reason assigned by the second petitioner in his order dated 22.03.2010 rejecting

claim petition filed under Section 90, no longer survives because the surcharge order has been set aside. The other dues have been recovered from the first respondent. Therefore, the gratuity amount is required to be paid to the first respondent and the petitioners have not made out any case for the interference with the order passed by the Tribunal.

4. For the above reasons, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

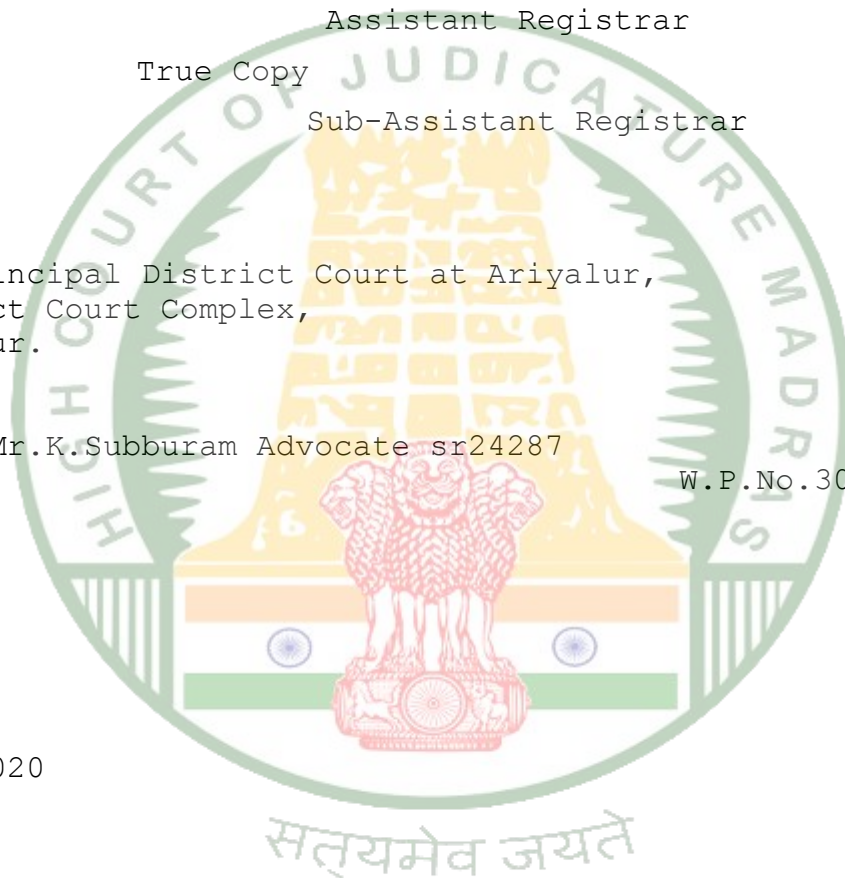
Pns
To

The Principal District Court at Ariyalur,
District Court Complex,
Ariyalur.

+1 cc to Mr.K.Subburam Advocate sr24287

W.P.No.30381 of 2012

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