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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

S.A.No.719 of 2012
and M.P.No.1 of 2012

1.The Secretary,
Ulkottai Handloom Weavers Co-operative Society,
Ulkottai Village,
Udaiyarpalayam Taluk, Ariyalur District.

2.The Special Officer,
Ulkottai Handloom Weavers Co-operative Society,
Ulkottai Village,
Udaiyarpalayam Taluk, Ariyalur District.

3.The Assistant Director,
Handloom and Textiles Department,
Kumbakonam.

4.The Director,
Handloom and Textiles Department,
Kuralagam,
Chennai - 600 104

...Appellants/Defendants

Vs.

1.Thirunavukkarasu

2.Mangayarkarasi

...Respondents/Plaintiffs

PRAYER: This Second Appeal has been filed under Section 100 of CPC against the judgment and decree passed in A.S.No.62 of 2008 by the Sub-Court, Ariyalur, dated 13.09.2010, reversing the judgment and decree passed in O.S.No.257 of 2006, by the District Munsif Court, Jayenkondam, dated 18.03.2008.

For Appellants : Mr.D.Gopal
Government Advocate

For R1 : Died



For R2

: Mr.S.Kamadevan

JUDGMENT

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The defeated defendant is the appellant herein.

2.This Second Appeal has been filed against the judgment and decree passed in A.S.No.62 of 2008 by the Sub-Court, Ariyalur, dated 13.09.2010, wherein, the learned Judge has reversed the judgment and decree passed in O.S.No.257 of 2006, by the District Munsif Court, Jayenkondam, dated 18.03.2008.

3.The respondents/plaintiffs have filed a suit in O.S.No.257 of 2006, before the District Munsif Court, Jayenkondam, seeking relief of claiming Weavers Pension of Rs.200/- by way of mandatory injunction and they relied upon the following facts:

(a).The plaintiffs have entered into a membership of the Weavers Pension Scheme on 24.09.1961, the first plaintiff was aged about 70 years and the second plaintiff was aged about 68 years and from 01.07.2000, they are having the hand book relating to Tamil Nadu Weaver Guidelines, wherein, above 60 years, they are entitle for monthly pension of Rs.200/- and hence, the suit.

4.The appellants/defendants resisted claiming, inter alia contended that in view of the bar under Section 156 of the Tamil Nadu Cooperative Societies Act, the suit is not maintainable. In respect of the plaintiffs, no Rules have been violated, though the plaintiffs are aged about 60 years since they are not satisfied the Rule contemplated under Serial No.3 and Page No.10 of the hand book, wherein it is stated that prior to the date of the application, they should have been a member and weaving up to two years.

5.Before the Trial Court on behalf of the plaintiffs PW1 and PW2 were examined and Exs.A1 to A9 were marked; on behalf of the defendants DW1 was examined and Exs.D1 to D5 were marked.

6.Taking into consideration the facts and circumstances of the case, the Trial Court has dismissed the suit on 18.03.2008. Aggrieved against the same, the plaintiffs have preferred an appeal suit in A.S.No.62 of 2008 before the Sub-Court, Ariyalur, wherein, the learned Judge by an dated 13.09.2010 has reverred the judgment and decree passed in the



they are not entitled to, besides the suit is also held to be not maintainable. However, without noticing the above fact the Lower Appellate Court has granted the decree.

13. Further, taking into consideration the Weavers Pension Scheme 1997, for eligibility of pension in Page No.10, Serial No.3, Section-A as per the hand book issued by the department, the Trial Court has rightly come to the conclusion that the plaintiffs are not satisfied the eligibility criteria as stated in G.O.Ms.No.199 and hence, I find that the Lower Appellate Court has not properly apprised of the Rule 7 of the Weavers Pension Scheme and on the factual position that the persons ought to have been an active member from the age of 58 to 60 years, which is mandatory for getting pension and on factual position the respondent/plaintiff are found to be not active member between the age 58 and 60 years unless the person is active member in the insurance scheme he is not entitled to.

14. Hence, I find that the finding rendered by the Lower Appellate court is not in accordance with the above said hand book and on the factual position, the respondents have not satisfied the eligibility criteria fixed for Old Age Pension for Weavers. In this view of the matter the findings of the Lower Appellate Court are stands vacated and the findings of the Trial Court is restored.

15. Accordingly, this Second Appeal is allowed and the judgment and decree passed in A.S.No.62 of 2008 by the Sub-Court, Ariyalur, dated 13.09.2010, is hereby set aside and the judgment and decree passed in O.S.No.257 of 2006, by the District Munsif Court, Jayenkondam, dated 18.03.2008, is restored. Consequently, connected miscellaneous petition stands closed. No costs.

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1.The Sub-Court, Ariyalur.

2.The District Munsif Court, Jayenkondam.



Copy to

The Section Officer
VR Section
High Court, Madras 104.

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+1 CC to The Special Government Pleader (CS) sr 67623.

S.A.No.719 of 2012
and M.P.No.1 of 2012

RSI (CO)
SP(25/03/2022)