



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2021

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 12802 of 2019

M.Devadoss

... Petitioner

-vs-

1. The District Collector,
Thiruvannamalai Distirct.
Thiruvannamalai.
2. The President,
Vandavasi Co-operative Housing Society Ltd.,
Vandavasi,
Thiruvannamalai.
3. The Regional Deputy Registrar (Housing),
No. 873, Gangeyanallur Road,
Gandhi Nagar,
Vellore.
4. The Registrar (Housing),
No. 48, Ritherdon Road,
Veppery,
Chennai - 600 007.
5. The Managing Director,
Tamil Nadu Co-operative Housing Society,
No. 48, Ritherdon Road,
Veppery,
Chennai - 600 007.
6. The Assistant Commissioner of Labour/Controlling Authority
under the Payment of Gratuity Act, 1972,
Integrated Labour Department Offices Building, Bangalore
Road, Abdullapuram I.T.I. Campus, Melmonavoor,
Vellore - 632 010.

... Respondents

(R6 is suo motu impleaded vide order dated 08.10.2021)

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, praying to direct the First Respondent to initiate the proceedings under the Revenue Recovery Act, against the Second Respondent herein, to recover the amount of Rs. 12,05,625/- towards balance gratuity amount, as on 31.03.2019



together with future interest at 15% on the basis of Certificate of Recovery dated 07.11.2017 issued by the Assistant Commissioner of Labour (Authority under the Payment of Gratuity Act, 1972), Vellore within the time to be stipulated by this Court.

For Petitioner : Mrs. V.Samuthira Vijayan

For Respondents: Mr. C. Harsha Raj,
Government Counsel (for R1 & R6)

Mr. L.P.Shanmugasundaram
(for R2 to R4)

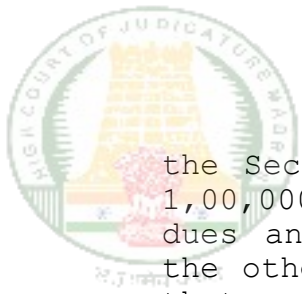
Mrs. Kanmani Annamalai (for R5)

O R D E R
(through video conference)

Heard Mrs. V.Samuthira Vijayan, Learned Counsel for the Petitioner, Mr. C.Harsha Raj, Learned Government Counsel appearing for the First Respondent, Mr. L.P.Shanmugasundaram, Learned Counsel appearing for the Second to Fourth Respondents and Mrs. Kanmani Annamalai, Learned Counsel appearing for the Fifth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Sixth Respondent by an order dated 17.02.2016 in P.G. No. 70 of 2015 had granted the claim for gratuity under Section 7(4) of the Payment of Gratuity Act, 1972 (hereinafter referred to as 'the Act' for short) made by the Petitioner against the Second Respondent. Since the Second Respondent failed to pay the determined amount of gratuity, the Petitioner was constrained to resort to the procedure prescribed under Section 8 of the Act for its recovery as arrears of land revenue. In furtherance thereto, the Sixth Respondent by Order in PG. No. 70/2015 dated 07.11.2017 requested the First Respondent to recover the amount due from the Second Respondent with compound interest at the rate of 15% per annum and send it to him. Since no action had been taken thereon by the First Respondent, the Petitioner has filed this Writ Petition for directing the First Respondent to initiate proceedings under the Revenue Recovery Act, 1890, against the Second Respondent to recover the amount of Rs. 12,05,625/- towards balance gratuity amount as on 31.03.2019 together with future interest at the rate of 15% per annum on the basis of the Certificate of Recovery dated 07.11.2017 issued by the Sixth Respondent within the time limit to be stipulated by this Court.

3. When the matter was taken up for hearing on 14.08.2020, it was represented by Learned Counsel for the Second Respondent that in view of the financial difficulties faced by



the Second Respondent, an initial amount of Rs. 1,00,000/- would be paid to the Petitioner towards gratuity dues and that efforts would be taken to mobilize funds from the other sources to pay the balance amount by 31.10.2020 and that an affidavit would be filed by the authorized signatory of the Second Respondent to that effect before the next hearing. After getting extension of time on 01.09.2020, 04.09.2020 and 10.09.2020, the Second Respondent filed an affidavit dated 09.09.2020 stating that a sum of Rs. 3,50,000/- would be paid by 31.10.2020 and the remaining amount would be paid by 31.12.2020. Though the Second Respondent had paid the sum of Rs. 3,50,000/-, the remaining amount still remain unpaid. In such circumstances, the Petitioner has filed Contempt Petition No. 619 of 2021 before this Court to punish the Second Respondent for non-compliance of the undertaking given to pay the balance amount of gratuity by 31.12.2020. In furtherance to the orders passed by this Court on 28.09.2021, 06.10.2021 and 07.10.2021, the Second Respondent appeared through video conference on 08.10.2021 and sought further time to pay the remaining amount of gratuity due in installments. Such conduct of the Second Respondent cannot be accepted and it is apparent that the ulterior motive of the Second Respondent is only to protract the proceedings indefinitely and further delay the payment due to the Petitioner towards gratuity. In such circumstances, there shall be a direction to the First Respondent to immediately take further measures for recovery of the remaining amount due to the Petitioner from the Second Respondent in terms of the Order in PG. No.70/2015 dated 07.11.2017 passed by the Sixth Respondent. Any clarification relating to the remaining amount to be recovered may be obtained by the First Respondent from the Sixth Respondent after due notice to the Petitioner and the Second Respondent. The First Respondent shall file a report in compliance of this order before the Registrar (Judicial) of this Court by 30.11.2021 without fail.

In the result, the Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vjt/skr



To

1. The District Collector,
Thiruvannamalai District.
Thiruvannamalai.
2. The President,
Vandavasi Co-operative Housing Society Ltd.,
Vandavasi,
Thiruvannamalai.
3. The Regional Deputy Registrar (Housing),
No. 873, Gangeyanallur Road,
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Integrated Labour Department Offices Building, Bangalore
Road, Abdullapuram I.T.I. Campus, Melmonavoor,
Vellore - 632 010.

Copy to

1. The Registrar (Judicial),
Madras High Court,
Chennai - 600 104.
2. The Section Officer,
Writ Section,
High Court, Madras -104

W.P. No. 12802 of 2019

RCD(CO)
CT(21/10/2021)