



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 19215 of 2021

1. Karthikeyan Traders
Rep by S.Karthikeyan
S/o. Mr. Selvam
Erumur, Bhuvanagiri Taluk
Kiliruppu, Cuddalore District - 608704
2. Anbarasu Traders
Rep by Anbarasu
S/O Selvaraj
3. Ayyappan traders
Rep by Ayyappan
S/o. Mr. Ramalingam
No. 75, Middle Street
Annaivari, Veeramudaiyanthan
Cuddalore District - 608702
4. E. Balaji Traders
Rep by E. Balaji
(Now represent by Guarantor Anbarasu)
Melatheru, Anaivari
Veeramudaiyanatham
Cuddalore District - 608702
5. C.S.E Traders
Rep. by S.E Christopher
37/B, Kananan Nagar 2nd Street
Thanjavur, Tamil Nadu - 613007
6. Edison Traders
Rep by Edison
S/o. Mr. Gnasekaran
398, MelaveliVethanarayantheethu
Manjakolai post, Chidambaram Taluk - 608601
7. Govindarajan Traders
Rep by V. Govindrajan
S/o. Mr. Venugopal
No103, Nadutheru, Kollapadi
Vazhaikkollai Post, Sethiathope
Cuddalore District - 608702



WEB COPY

8. Gunalan Enterprises
Rep by Mr. Gunalan
No.210 East ST Chinnanerkunam
Bhuvanagiri Taluk, Cuddalore
Cuddalore District - 606 103
9. Karthikeyan Traders
Rep by C. Karthikeyan
S/o. Chandrasekar
No.48 west street, Viruthachalam taluk
Mummudi chozhakan, kathazhai
Cuddalore - 606 103
10. Manikandan Enterprises
Rep by P. Manikandan
S/o. Mr. Palanisamy
No.01, North Street
Kizapazanjnallur, Kattumannarkoil Taluk
Cuddalore District - 608301
11. Pradesh Traders
Rep by K. Prabhu
S/o. Mr. Kasinathan
No.57, South Street
Anaivari, Bhuvanagiri Taluk
Cuddalore District - 608 702
12. Sampath Enterprises
Rep by T. Sampath
S/o. Mr. Thatchinamoorthy
No. 01, Kalliammankoil Street
Kilankandu, Bhuvanagiri Taluk
Cuddalore District - 608702
13. Selladurai Cashews
Rep. by Mr. Selladurai
S/o. Sundaramoorthy
No.1, Keelapazhanjanallur
Pazhanjanallur Post
Cuddalore 608301
14. SenthilMurugan Cashews
Rep by J. SenthilMurugan
S/o. Mr. Jeyaraman
No.504, North Street
Vadayankuppam
Manjakollai Post
Chidambaram Taluk 608601



WEB COPY

15. Solomon Cashews
Rep by Mr. Solomon
No.1954, Melakkara lane
Manojiyappa street
Thanjavur west
Thanjavur - 613 009

.. Petitioners

Versus

- 1.The Secretary to Government
Agricultural Department
Krishna Bhavan
Dr. Rajendra Prasad Road
New Delhi
2. The District Collector
Collectorate
Cuddalore
Cuddalore District
3. The General Manager
Debt Recovery Department
Canara Bank
No.170, Nag Construction
Lal Bhagathur Shasthri Street
Pondicherry
4. The Branch Manager
Canara Bank
Karikadu Branch
Cuddalore
Cuddalore District

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the third and fourth respondents not to pursue against the petitioners except after claiming the insurance made by them as per the term of MSME loan agreement, by considering their representation dated 30.07.2021.

For Petitioner : Mr. S. Senthil Kumar

For 2nd Respondent : Mr.Stalin Abhimanyu,
Government counsel

O R D E R

Mr.Stalin Abhimanyu, learned Government Counsel takes notice for the second respondent. With the consent of both sides, this writ petition is taken up for final disposal at the



admission stage itself.

2. According to the petitioners, they are farmers engaged in cultivating seasonal agricultural products. In the years 2018 and 2019, they cultivated cashew nuts in Cuddalore District. It is their case that whenever their products did not get fair price, they store their products in the warehouse and sell the products for good price at a later time. It is also stated that most of the cashew nuts cultivated by them are exported out of India. Since the petitioners are engaged in cultivating cashew nuts in a small scale, they have approached the fourth respondent Bank for MSME loan. The officials of the fourth respondent, in turn, inspected the stock in the godown and sanctioned loan to the tune of 70% of the market value of the stock, stored in the government warehouse. The stocks were also insured for 100% of the market value. The petitioners also executed necessary agreements for loan and hypothecation of the movables. As per the terms of the agreements, the fourth respondent also deducted necessary charges for warehouse rent and insurance premium from the petitioners account for the products hypothecated. While so, during the Cyclone Thane, Cyclone Nivar and Cyclone Puravi that had hit the Cuddalore District they could not sell their cashew nuts in the markets. Due to the poor weather and cyclone, the quality of the cashew nuts stored in the warehouse also deteriorated. The hypothecated products are in the warehouse, which is under the custody of the fourth respondent and even for sale of the cashew nuts prior permission of the fourth respondent has to be obtained. In this context, the petitioners have sustained severe loss and unable to repay the loan. However, the fourth respondent bank sent a notice dated 20.11.2020 through their counsel demanding repayment of the over due amount. It is the contention of the petitioners that when the cashew nuts are insured with the Insurance Company, to off set the loss caused due to the cyclone, the fourth respondent has to approach the Insurance Company and get the compensation for the loss of the goods before approaching the petitioners. On the other hand, the fourth respondent is attempting to bring the cashew nuts for auction to realise the due amount. The petitioners therefore sent a notice dated 30.07.2021 to the respondents to desist from bringing the goods in auction before realising the compensation amount from the Insurance Company. However, the notice dated 30.07.2021 has not been responded to by the fourth respondent. Therefore, the petitioners have filed the present writ petition.

3. Heard both sides and perused the materials placed before this Court.

4. Considering the above facts and circumstances of the



case and having regard to the submissions made by the learned counsel on either side, this Court directs the third and fourth respondents to consider the notice dated 30.07.2021 sent on behalf of the petitioners and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioners or their representative. Such an exercise shall be completed by the respondents 3 and 4 within a period of eight weeks from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

dhk/rsh

To

1. The Secretary to Government
Agricultural Department
Krishna Bhavan
Dr. Rajendra Prasad Road
New Delhi
2. The District Collector
Collectorate, Cuddalore,
Cuddalore District
3. The General Manager
Debt Recovery Department
Canara Bank
No.170, Nag Construction
Lal Bhagathur Shasthri Street
Pondicherry
4. The Branch Manager
Canara Bank,
Karikadu Branch
Cuddalore, Cuddalore District

+1cc to the Government Pleader, S.R.No. 47214

W.P. No. 19215 of 2021

GPL(CO)
GN(11/10/2021)