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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH

and

THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.2897 of 2019
and C.M.P.No.18648 of 2019

M/s.South Indian Shipping & Export Co.,
Rep. by its Managing Partner,
Saleem Basha,
Taj Towers, No.22A, Second Line Beach,
Chennai - 600 001.

.. Appellant

Vs

1.The Government of India
Rep. by its Under Secretary,
Ministry of Social Justice and Empowerment,
Room No.622, A-Wing,
Shastri Bhavan,
New Delhi - 110 001.

2.Tribal Co-operative Marketing Development
Federation of India Limited (TRIFED),
Rep. by its Managing Director,
NCUI Building Second Floor,
3, Siri Institutional Area,
Khel Gaon Marg, New Delhi - 110 016.

.. Respondents

Appeal filed under Clause 15 of Letters Patent against the
order dated 08.08.2019 made in W.P.No.23762 of 2018.

Prayer in W.P.No.23762 of 2018:

Writ Petition filed under Article 226 of the Constitution of
India Praying for issuance of a Writ of Mandamus directing the
respondents to release the sanctioned amount of Rs.28 71 299/-
along with interest to the petitioner in light of the
proceedings of 1st respondent in No.22-15/ 2000-NI-I dated
30.09.2003 within a time frame.



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For Appellant : Mr.Sathish Parasaran, Sr.Counsel
Mr.P.Arumugavel

For Respondents : Mr.R.Sankaranarayanan, ASGI
for Mr.Jayaganesan for R1
Mr.K.Lavan for R2

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This appeal is directed against the order dated 08.08.2019 made in W.P.No.23762 of 2018.

2. After making the submissions on merit, learned Senior Counsel appearing for the appellant submitted that liberty may be given to agitate on the issue of set off in the execution petition. Learned Senior Counsel submitted that in such case, the order passed by the learned Single Judge and the order passed in A.No.4269 of 2012 may not stand in the way.

3. Mr.R.Sankaranarayanan, learned Additional Solicitor General appearing for the respondent submitted that in this appeal, there is no merit and, therefore, the same deserves to be rejected.

4. Considering the submissions made, we are of the view that inasmuch as the execution petition is pending and what the appellant seeks is only a set off, the said issue will have to be determined at the time of deciding the said application in A.No.3020 of 2012. The observation made in A.No.4269 of 2012 being prima facie, the same will not stand in the way of the court deciding on the said issue of set off for a sum of Rs.7,11,000/-.

5. In such view of the matter, we only observe that the executing Court is expected to decide the application on its own merit without being influenced by order under challenge in this writ appeal and the order passed in A.No.4269 of 2012 in A.No.3020 of 2012 in E.P.No.2965 of 2008.

6. Taking into consideration the long pendency of the execution petition, we request the learned Single Judge dealing with the aforesaid case to make an endeavour to dispose of the same within a period of three months.



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7. With the above observation, the writ appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mmi/ssm
To

1.The Under Secretary,
Government of India
Ministry of Social Justice and Empowerment,
Room No.622, A-Wing,
Shastri Bhavan,
New Delhi - 110 001.

2.Tribal Co-operative Marketing Development
Federation of India Limited (TRIFED),
Rep. by its Managing Director,
NCUI Building Second Floor,
3, Siri Institutional Area,
Khel Gaon Marg, New Delhi - 110 016.

+2ccs to Mr.A.Edwin Prabhakar, Advocate SR.No. 32111
+1cc to Mr. Mr.Jayaganesan, Advocate SR.No. 31602
+1cc to Mr.K.Lavan , Advocate SR.No. 31803

W.A.No.2897 of 2019

VSN II(CO)
A.SK(04.08.2021)