



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.12.2021

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.17281 of 2013

and

M.P.(MD)No.2 of 2013

WEB COPY

R-11064, The Arthur Primary Agricultural
Co-operative Credit Society Limited,
represented by its President
P.A.Karumanan,
Mangachozhipalayam,
Poolampalayam,
Karur District - 639 002.

... Petitioner

vs.

1.The District Collector,
Karur District, Karur.

2.The Tahsildar,
Karur Taluk, Karur District.

3.R.Kandasamy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the recovery proceeding pursuant to the impugned order in R.C.No.H1/22651/2011, dated 13.12.2012, passed by the first respondent and consequential order of the second respondent in Na.Ka.No.A4/9436/2012, dated 20.12.2012 and to quash the same as illegal and consequently to direct the respondents 1 and 2 to drop all further proceedings under the Revenue Recovery Act.

For Petitioner : No representation

For R-1 and R-2 : Mr.R.Ragavendran
Government Advocate (Civil Side)

For R-3 : Mr.K.K.Senthil

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned recovery proceeding in R.C.No.H1/22651/ 2011, dated 13.12.2012 and consequential order of the second respondent in Na.Ka.No.A4/9436/2012, dated 20.12.2012 and consequently to direct the respondents 1 and 2 to drop all further proceedings under the Revenue Recovery Act.



2.The third respondent was working as a Secretary in the petitioner Society and the third respondent raised an industrial dispute under Section 2(k) of the Industrial Disputes Act in I.D.No.172 of 1992 to set aside the order of termination, dated 12.11.1983. An award was passed to reinstate the third respondent from 01.01.1976 with back wages and continuity of service. The Society challenged the award before this Court in W.P.No.1850 of 1995 and the same was dismissed on 11.07.2002. Thereafter, the third respondent filed a claim petition in C.P.No.139 of 2003 claiming an amount of Rs.5,07,043/- (Rupees Five Lakh Seven Thousand and Forty Three only) by way of back wages. The said claim was allowed by the Labour Court, Trichy by an award, dated 13.06.2005. Challenging the same, the Society filed a Writ Petition is W.P.(MD) No.7940 of 2005 and the same was dismissed on 07.09.2009.

3.The third respondent again filed a Writ Petition in W.P. (MD)No.8780 of 2012, for directing the first respondent to implement the order of the Labour Court in C.P.No.139 of 2003. This Court directed the first respondent to initiate proceedings to recover the amount under Revenue Recovery Act. The Society has filed this Writ Petition stating from the year 2002 onwards, the Society is running under loss and it is facing several financial deficits.

4.In the meanwhile, the first respondent has passed an order, dated 13.12.2012, directing the second respondent Tahsildar to initiate recovery proceedings under Section 5 of Tamil Nadu Revenue Recovery Act, 1864. The second respondent issued notice, dated 20.12.2012, to the Special Officer of the Society, demanding Rs.5,07,043/- (Rupees Five Lakh Seven Thousand Two Hundred and Forty Three only).

5.In the meanwhile, the third respondent initiated Contempt proceedings against the first respondent in Contempt Petition (MD) No.555 of 2013. In the meanwhile, there was a change in management on 09.05.2013. In spite of loss, the Society has paid Rs.2,00,000/- (Rupees Two Lakh only), vide Cheque No.341931 on 13.06.2013. In the meanwhile, the Society and the third respondent entered into compromise on 21.10.2013. As per the compromise, the third respondent received Rs.1,00,000/- (Rupees One Lakh only) on 21.10.2013, vide Cheque No.341947. The third respondent agreed to receive the balance of Rs.2,07,043/- (Rupees Two Lakh Seven Thousand and Forty Three only) under equal monthly installments of Rs.5,000/- (Rupees Five Thousand only) per month and the third respondent agreed to withdraw the Contempt Petition. The claim of the petitioner Society is that in spite of the compromise, the continuation of the recovery proceedings, dated 13.12.2012 and the consequential order, dated 20.12.2012, is not sustainable. Aggrieved over the same, the present Writ Petition is filed, praying



to quash the same and the consequentially to drop the proceedings.

6.Heard Mr.R.Ragavendran, learned Government Advocate appearing for first and second respondents and Mr.K.K.Senthil, learned Counsel appearing for third respondent.

7.The Government Advocate appearing for the first and second respondents submitted that the monthly installments of Rs.5000/- was paid by the Society and nearly Rs.5,00,000/- (Rupees Five Lakh only) have been paid. Then, the balance of Rs.7,043/- (Rupees Seven Thousand and Fourty Three only) alone is payable.

8.At this juncture, the learned Counsel appearing for the third respondent submitted that the third respondent died.

9. For the facts and reasons stated above, this Court is of the view that the Society, in spite of running under loss, has paid Rs.5,00,000/- (Rupees Five Lakh only), which is substantial amount and only the balance of Rs.7,043/- (Rupees Seven Thousand and Forty Three only) is payable. Since the Society is under loss and the Society has paid substantial amount, this Court is waiving the balance amount of Rs.7,043/-.

10.Accordingly, the Writ Petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Tmg

To

1.The District Collector, Karur District, Karur.

2.The Tahsildar, Karur Taluk, Karur District.

+1 CC to M/s.K.K.SENTHIL, Advocate (SR-38445[F] dated 13/12/2021)

+1 CC to M/s.SPL GP (SR-38108[F] dated 10/12/2021)

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RD(23.12.2021) 3P 5C