



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2021

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

W.P. (MD) No. 8119 of 2013

and

M.P. (MD) No. 3 of 2013

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1.Karpagam Spinners (P) Ltd.,
Represented by its Managing Director,
M.L.V.Arasu,
100, Vahaikulam,
T.Karisalkulam,
Tirunelveli - 627 010.

2.M.L.V.Arasu,
No.25/6-I, Chekkadi Narayanaswamy Koil Street,
Old Pettai, Tirunelveli - 627 007 ... Petitioners

Vs.

1.Recovery Officer / Assistant PF Commissioner,
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhavan,
NGO- 'B'Colony,
Perumalpuram (P.O.),
Tirunelveli - 627 007.

2.Regional Provident Fund Commissioner - II,
Employees Provident Fund Organisation,
Bhavishya Nidhi Bhavan,
NGO- 'B'Colony,
Perumalpuram (P.O.),
Tirunelveli - 627 007. ... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records of the proceedings of the First Respondent in TN/TNY/20247/Recy/T-14/2013, dated 19.04.2013 and quash the same and permit the petitioners to sell the movable and immovable property of the First Petitioner by private sale in the presence of the First Respondent, his men/agents and adjust the same towards the provident fund dues to the Provident Fund Commission.

For Petitioners : Mr. V.Nagarajan
For Respondents : Mr. K.Murali Sankar



ORDER
(through video conference)

Heard Mr. V.Nagarajan, Learned Counsel for the Petitioners and Mr. Mr. K.Murali Sankar, Learned Standing Counsel, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The First Respondent by proceedings No. TN/TNY/20247/Recy/T-14/2013 dated 19.04.2013 had ordered for sale of immovable properties of the Second Petitioner, which had been attached by order dated 11.03.2013 in TN/TNY/20247/Recy/CP16/2013 for recovery of the provident fund dues from the First Petitioner. The grievance sought to be ventilated by the Petitioners in this Writ Petition is that personal property of the Second Petitioner, who is the Managing Director of the First Petitioner, ought not to be attached and brought for sale before exhausting the remedies for realising the dues from the other available assets of the First Petitioner.

3. It is accepted by Learned Counsel for both sides that though there has not been any interim order from the time of filing of the Writ Petition on 07.05.2013, the sale of the attached properties of the Second Petitioner has not taken place. However, Learned Counsel for the Respondents has brought to the notice that there have been proceedings commenced against the First Petitioner before the National Company Law Tribunal, Chennai, for liquidation of its assets and against those orders passed, the appeal in Company Appeal (AT) (Insolvency) No. 311 of 2019 was filed before the National Company Law Appellate Tribunal, New Delhi, and the copies of the proceedings dated 26.08.2019 and 05.09.2019 have been produced which reflects that a sum of Rs. 75,23,608.40 has been deposited with the Regional Provident Fund, Tirunelveli, on 28.08.2019, but the matter has been remitted to the National Company Law Tribunal, Chennai, to decide as to which creditor of the First Petitioner is entitled to that amount uninfluenced by the earlier orders passed, which would mean that the recovery of provident fund dues from the First Petitioner is yet to finality and would have to await the outcome of those proceedings. In such circumstances, no adjudication is required on the questions raised in this Writ Petition for the time being and if necessity arises in future, the Respondents are not precluded from reviving the proceedings for the sale of the attached properties of the Second Petitioner for recovering the provident fund dues of the First Petitioner following the prescribed procedure and in that event, the Petitioners may work out their remedies for appropriate relief before the proper forum in accordance with law.



4. In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, connected Miscellaneous Petition is closed. No costs.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

+1 CC to M/s.K.MURALI SANKAR, Advocate (SR-20064[F] dated 24/06/2021)

+1 CC to M/s.M.KAMALANATHAN, Advocate (SR-20063[F] dated 24/06/2021)

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