



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE **M.M. SUNDRESH**

AND

THE HONOURABLE MRS. JUSTICE **S. ANANTHI**

W.A. (MD) No. 336 of 2021

and

C.M.P. (MD) No. 1149 of 2021

against WP (MD) No. 1593 of 2021

WEB COPY

The Palliyadi Handloom Weavers' Co-operative
Production and Sale Society Limited No. 2489,
Rep. by its Managing Director,
Valvachakoshtam Village,
Kanyakumari District. : Appellant/Petitioner

Vs.

1. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub-Regional Office,
43 P/1, Trivandrum Road,
Tirunelveli - 627 002.
2. The Assistant Provident Fund Commissioner / Recovery Officer,
Employees Provident Fund Organization,
Regional Office,
65A, Water Tank Road,
Nagercoil - 629 001,
Kanyakumari District.
3. The Manager,
Kanyakumari District Central Co-op Bank,
Alexander Press Road,
Nagercoil - 629 001,
Kanyakumari District. : Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent as against the order dated 02.02.2021 made in W.P. (MD) No. 1593 of 2021.

Prayer in WP (MD). 1593/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to calling for the records of the 1st respondent pertaining to his order in proceedings no. TN/TI/33252/Enf.1(4)/KK-I/97 dt 10.12.1997 on his file and the consequential order of the 2nd respondent in no. TN/NGL/33252/Recy/8F/2021 dt 6.1.2021 on his file quash the same.

<https://hcservices.ecourts.gov.in/hcservices/>



For Appellant : Mr.K.N.Thambi
For Respondents : Mr.K.Gurunathan
for R.1 & R.2

WEB COPY

Mr.D.Shanmugaraja Sethupathy
for R.3

JUDGMENT

(Judgment of the Court was delivered by **M.M.SUNDRESH, J.**)

When the matter is taken up for hearing today, the learned Counsel appearing for the appellant filed the following memo:

"The appellant in the above writ appeal respectfully seeks leave of this Honourable Court to withdraw the writ appeal and the writ petition in W.P.(MD)No.1593 of 2021 on the file of this Honourable Court, against the order wherein the above writ appeal has been filed, with liberty to the appellant to file statutory appeal, without being affected by limitation, in the matter, and the operation of the said orders impugned in the writ petition may be stayed until the appellant's petition for stay to be filed in the said statutory appeal is disposed of."

2. Based upon the said memo, the learned Counsel appearing for the appellant submitted that liberty may be given to file a statutory appeal. It is submitted that even at the time of hearing the writ petition, such an objection has been raised.

3. The learned Counsel appearing for the respondents submitted that it is for the appellant to pursue the alternative remedy, if so advised.

4. Considering the submission made, we are of the view that the appellant may be permitted to recourse to the statutory appeal, inasmuch as the appellant has wrongly approached this Court and having warranted an observation by this Court, only at it's instance, we are inclined to permit the appellant to withdraw both the writ appeal as well as the writ petition.

5. In such view of the matter, this writ appeal is dismissed as withdrawn and invoking Section 14 of the Limitation Act, we are inclined to give further period of four weeks from the date of receipt of a copy of this judgment to the appellant to file the statutory appeal, if so advised. As and when, such an appeal is filed, the appellate authority is expected to consider the same, on its own merits, uninfluenced by any of the findings of the Writ Court. It is made clear that all the issues are left open. Taking note of the fact that the appellant is a Co-operative Society, there shall be an order of *status-quo*, as on date, with respect to taking



coercive action including freezing of accounts of the appellant, till the filing of the statutory appeal by the appellant. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gk

+1 CC to M/s.K.N.THAMBI, Advocate (SR-4865[F] dated 12/02/2021)

+1 CC to M/s.K.GURUNATHAN, Advocate (SR-4993[F] dated 15/02/2021)

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-5446[F] dated 16/02/2021)

W.A. (MD) No.336 of 2021

(SSS) CO

AP(17/02/2021) 3P 4C