



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2021

C O R A M

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THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W. P. (MD) No. 11598 of 2016

H.Kadhar Sulthan

... Petitioner

- VS -

1. The District Collector,
Office of the District Collector,
Madurai District.
2. The Rathnakar Bank Limited,
Rep. by its General Manager,
One India Bulls Centre,
Tower 2, 6th Floor,
No.841, Senapathi Bapat Marg,
Lower Parel(West)
Mumbai-400 013.
3. M/s.Sheela Rani Textiles,
Rep by its Managing Director,
R.John Sundarapandian
Thenur, Samayanallur,
Madurai District.
4. The Official Liquidator,
(Attached to Honorable High Court of Madras)
Block No.1, 1st Floor,
Esplanade,
Chennai-600 108.
5. Industrial Development Bank of India Ltd., (IDBI)
Rep. by its General Manager,
IDBI Bank,
Coimbatore Main Branch,
Coimbatore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Second and Third Respondents to disburse the gratuity with interest as per the award in P.G. No. 32 of 1998 passed by the Learned Assistant Commissioner of Labour, Madurai, on 07.12.1999 within the time stipulated by this Court.



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For Petitioner : Mr. S. Malaikani
For R1 : Mr. D. Gandhiraj,
Counsel for the Government of
Tamil Nadu
For R2 : Mr. B. Murugan
For R3-5 : No appearance

O R D E R
(through video conference)

Heard Mr. S.Malaikani, Learned Counsel for the Petitioner, Mr. D.Gandhiraj, Learned Counsel representing the First Respondent and Mr. B.Murugan, Learned Counsel for the Second Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2.The Petitioner was employed in Sri Sivagami Mills Ltd., which has been re-named as Sheela Rani Textiles, the Third Respondent herein. After his retirement from service, the Petitioner claimed gratuity due from the Third Respondent in an application in P.G. No. 32 of 1998 before the Assistant Commissioner of Labour, Madurai, who is the Controlling Authority under Section 7(4) of the Payment of Gratuity Act, 1972, and after determining the gratuity amount payable to the Petitioner in the order dated 07.12.1999, a certificate dated 06.06.2000 had also been issued to the First Respondent to recover the said amount as arrears of land revenue from the Third Respondent. The present Writ Petition has been filed for implementing the said orders.

3.It is borne out from the materials placed on record that winding up proceedings has been initiated against the Third Respondent, and the Second Respondent had brought the assets of the Third Respondent for sale. The Fourth Respondent, viz., Official Liquidator, has filed a report dated 26.04.2021 in this Court stating that the sum of Rs. 82,912/- claimed by the Petitioner towards his gratuity from the Third Respondent is admitted fully. It is further stated that out of the sale proceeds of the assets of the Third Respondent, a sum of Rs. 65,97,953/- towards the claim of workmen creditors (on pro-rata basis) has been remitted with the Official Liquidator on 21.12.2018 and a Company Application in C.A. No. 22 of 2019 in C.P. No. 132 of 2008 containing the settled list of creditors in Form No. 71 for disbursement of dividend to 433 workmen creditors (including the claim of the Petitioner for gratuity) at the rate of 8.43% is pending. Learned Counsel for the Petitioner has acknowledged the receipt of the copy of the said report.



4. In view of those subsequent events, the Petitioner would have to work out his remedy for recovering the gratuity due to him in the aforesaid proceedings in accordance with law.

In the result, the Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

Ns/SRM

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.

To

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2. The Official Liquidator,
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