



C.R.P.No.1485 of 2020
and C.M.P.Nos.8778 & 8779 of 2020

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2022

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

C.R.P.No.1485 of 2020

and C.M.P.Nos.8778 & 8779 of 2020

The Manager Coimbatore District

Co-operative Milk Producers Union Ltd.,

Rep. by its General Manager,

Pachapayalam, Coimbatore-643 010.

...Petitioner

Vs.

K.N.Murugesan

... Respondent

Prayer : Civil Revision Petition filed under Section 115 of CPC against the fair and decretal orders dated 24.09.2019 passed in E.P.No.17 of 2018 in CP. Nos.202/2003, 959/2003, 422/2004 & 202/2007 on the file of the Additional Labour Court, Coimbatore.

For Petitioner : Mr.P.Narayanamoorthy

ORDER

The present Civil Revision Petition is filed challenging the fair and decretal orders passed in E.P.No.17 of 2018 by the Additional Labour Court, Coimbatore on 24.09.2019. The execution petition was



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filed by the respondent/petitioner under Order XXI Rule 11 (2) CPC for attachment and sale of movable properties of revision petitioner/Manager Coimbatore District, Co-operative Milk Producers Union Limited in execution of the orders passed in C.P.Nos.202 of 2003, 959 of 2003, 422 of 2004 & 202 of 2007 in and by which a sum of Rs.8,54,754/- was directed to be paid by the revision petitioner.

2.The revision petitioner filed his counter affidavit contending *interalia* that since a petition in W.P.No.15211 of 2018 is pending before the High Court, the execution petition is pre-matured. After full contest, the learned Presiding Officer, Additional Labour Court, Coimbatore, allowed the execution petition and directed the attachment of four vehicles belonging to the revision petitioner (respondent in E.P.No.17 of 2018), vide his orders dated 24.09.2019. Aggrieved over the same, the present Civil Revision Petition is filed.

3. Heard Mr.P.Narayanamoorthy, learned counsel appearing for the revision petitioner.



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4. Mr.P.Narayanamoorthy, learned counsel appearing for the revision petitioner contended that the amount claimed by the respondent/petitioner in E.P.No.17 of 2018 is wrong and even without considering the same, the Presiding Officer, Additional Labour Court, Coimbatore, has passed an order attaching the vehicles of revision petitioner/Manager Coimbatore District, Co-operative Milk Producers Union Limited.

5. A perusal of the records shows that the revision petitioner during the pendency of the present civil revision petition has deposited the entire amount of Rs.8,54,754/- by way of a cheque drawn on Union Bank of India dated 22.10.2019 and consequently, full satisfaction memo was recorded in the execution petition. The execution petition was thereafter, terminated on 30.10.2019. It is also seen from the records that in E.A.No.1 of 2019 filed by the decree holder, the entire award amount was transferred to him by way of RTGS through State Bank of India, Treasury Branch, Coimbatore under the cheque bearing No.688261 dated 26.02.2020. The only point raised before the Executing Court is that



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since W.P.No.15211 of 2018 is pending before the High Court, the execution petition cannot be maintained, since it is pre-matured. The Executing Court has rejected this contention by observing thus:

"10.The another main objection raised by the respondent is that the Labour Court can only execute the award passed in the Industrial Dispute cases and it cannot execute the orders passed in the computation petitions. So, according to the respondent this E.P. is not maintainable. This Court is unable to accept the said contention put forth by the respondent, because aggrieved by the dismissal order issued by the respondent, the petitioner had already raised an Industrial dispute in I.D.No.149 of 1977 and an award was passed in his favour on 12.10.1988 directing the respondent to reinstate the petitioner with continuity of service, full back-wages and all other attendant benefits. The said award was upheld by the Hon'ble High Court in Writ Petition No.3059 of 1989 by its order dated 30.06.1998. Thereafter, the petitioner filed C.P.No.498/1999 claiming back-wages up to 21.11.1999 and the same was allowed. Subsequently, the respondent filed Writ



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Appeal No.2287/2000 and the same was dismissed by the Hon'ble High Court, Madras by upholding the award. Subsequently, the petitioner has filed the above computation petitions for the remaining periods, since the respondent did not comply with the award passed in I.D.No.149/1977. These aspects has been discussed in Ex.W-1 order as well as in the order passed in W.P.No.15211/2018. The respondent has not disputed the said aspects. So, now the respondent cannot contend that this execution petition is not maintainable, as already the claim of the petitioner is supported by award and orders of the Hon'ble High Court, Madras. Therefore, this Court decides that this Execution petition is maintainable.

11.The order under Ex.W-1 has been passed on 26.09.2017. The petitioner has been knocking the doors of justice from the year 1977. He was dismissed from service on 15.04.1974. He attained the age of superannuation on 11.04.2004. However, despite the award, orders by the Hon'ble High Court and even after filing of this E.P., the respondent has



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not come forward to pay the amount as directed in the order under Ex.W-1 and so, it is clear that the petitioner is entitled to maintain this E.P. to execute the order passed in the above computation petitions. The respondent has not denied its title over the petition mentioned four vehicles. Hence, this court come to the conclusion that the petitioner is entitled for an order of attachment and sale of the four vehicles mentioned in the petition to realize the amount due from the respondent. Accordingly, this points are answered in favour of the petitioner."

6.I do not find any infirmity in the orders passed by the Executing Court and accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
mtl

To

- 1.The Additional Labour Court, Coimbatore.
- 2.The Section Officer, VR Section, High Court, Madras.

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