



W.P.No.24564 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

CORAM

**THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

W.P.No.24564 of 2007

and M.P.Nos.1 and 2 of 2007

M/s.TRANSMEDICA THOZHILALARGAL SANGAM

[Regn. No.1261/RTU/2001]

No.471, Bharathi Street,

Puducherry-605 1110

Represented by its President

S.Motilal

... Petitioner

Vs

1.M/s.TRANSMEDICA (India) Limited,

No.6 (Old No.2-D),

Vasant Street, T.Nagar,

Chennai – 600 017.

2.The Chairman & Managing Director,

Industrial Development Bank of India Limited,

IDBI Tower,

Cuffe Parade, Mumbai.

3.The Deputy General Manager &

Authorised Officer,

Industrial Development Bank of India Limited,

No.115, Anna Salai,

Saidapet,

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Chennai – 600 015.

4.The Commissioner of Labour,  
Labour Department,  
Puducherry.

5.Puduchery Industrial Promotion Development  
and Investment Corporation Lts. (PIPDIC),  
No.60, Romain Rolland Street,  
Puducherry – 605 001.

... Respondents

**PRAYER:-** Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the 2<sup>nd</sup> and 3<sup>rd</sup> respondents to deposit a sum of Rs.4.05 Crores from out of the sale proceeds of the movable and immovable properties of the 1<sup>st</sup> respondent with the 4<sup>th</sup> respondent herein, who in turn, may be directed to compute and disburse the amounts due to the workers of the 1<sup>st</sup> respondent within 1 month after issuing notice to the petitioner herein and pass such further orders.

For Petitioner : Mr.S.Sathia Chandran

For R 1 : No appearance

For RR2 & 3 : Mr.Lokesh Kumar  
for Mr.Palani Kumar Ramesh

For R4 : Mr.Vasanth Kumar  
Additional Government Pleader  
(Pondicherry)

For R5 : Mr.D.Ravi Chandran

### **ORDER**

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This Writ Petition has been initiated by the M/s.TRANSMEDICA Thozhilalargal Sangam/petitioner. In view of default in repayment of the amount, the 2nd and 3rd respondent had initiated action against the 1st respondent for recovery of certain dues to them and had sold certain properties which were put to auction in which they had also recovered their dues.

2. Heard the learned counsels appearing for their respective parties and perused the materials available on record before this Court.

3. The case of the petitioner is that out of the recovered dues, they are entitled to a proportionate sum of Rs.4.05 Crores towards the dues payable to them by the 1st respondent.

4. It is not the case of the petitioner that the 1st respondent had been wound up or was not functioning at the time of filing of this Writ Petition. When that being so, there can be no claim as against the 2<sup>nd</sup> and 3<sup>rd</sup> respondent even as *pari passu* towards the dues that has to be

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paid by the 1st respondent to the workers of the petitioner's Sangam. The Writ Petitioner/Sangam itself has pleaded in its affidavit filed in support of the Writ Petition that the BIFR had rejected a reference of the 1<sup>st</sup> respondent to declare the Company a sick industry as not maintainable since the net worth of the Company was positive. When that be so, the 1<sup>st</sup> respondent/Company at the time, when the action was initiated by the 2<sup>nd</sup> and 3<sup>rd</sup> respondents could not be termed to be a sick industry or an industry that has been wound up for the petitioner to make his claim under the *pari passu* principle.

5. Therefore, I find no necessity to issue Mandamus as sought for in this Writ Petition and the petitioner's Sangam is at liberty to workout the remedy against the 1st respondent.

6. With the aforesaid liberty, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No  
Speaking order : Yes/No  
Neutral Citations : Yes/No

To

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Chennai – 600 017.
- 2.The Chairman & Managing Director,  
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Labour Department,  
Puducherry.

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and Investment Corporation Lets. (PIPDIC),  
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**K.KUMARESH BABU,J.**

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