



W.P.No.9931 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2023

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THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

Writ Petition No.9931 of 2023

and

Writ Miscellaneous Petition No.9993 of 2023

V.Mathiyalagan

... Petitioner

Versus

1. The Collector,
Nagapattinam.

2. Tamil Nadu Civil Supplies Corporation,
Rep by its Senior Regional Manager,
Nagai Region, Nagapattinam,
Nagapattinam 611 001.

3. The Village Administrative Officer,
Kondathur, Sirkali Taluk,
Mailadudurai District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the third respondent from initiating any action made under the Tamil Nadu Revenue Recovery Act, in pursuance of the memo Na.Ka.No.D3/7003/2022 dated 07.09.2022 of the second respondent.



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For Petitioner : Mr.S.Venkataraman
For RR1 and 3 : Mr.S.Rajesh,
Government Advocate
For R2 : Mr.C.Selvaraj,
Standing Counsel

ORDER

The Writ Petition has been filed in the nature of Writ of Mandamus to direct the third respondent from initiating any action made under the Tamil Nadu Revenue Recovery Act, in pursuance of the memo Na.Ka.No.D3/7003/2022 dated 07.09.2022 of the second respondent.

2. The case of the petitioner in brief:

The petitioner was employed as Assistant Manager (Quality Control) at Modern Rice Mills, Erukkur, Sirkali Taluk under the control of the second respondent/Corporation and at present, the Nagai District has been bifurcated and Mayiladudurai District was formed and his files are presently handled by the Mayiladudurai Region. On the date of his retirement, the recovery amount was shown as Rs.28,42,731/- towards storage loss and the petitioner was



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compelled to execute undertaking for the loss and to adjust the benefits of EL/UEL against the recovery. In a Memo dated 07.09.2022, the second respondent has stated that the Head Office has advised the second respondent to recover the amount either by filing Civil Suit or under Revenue Recovery Act and has requested the third respondent to collect the details of movable and immovable properties owned by the petitioner. The Village Administrative Officer visited the petitioner's place and by the order in Na.Ka D3/7003/2022 dated 07.09.2022, it was informed that the petitioner has to pay Rs.28,42,731/- to the Civil Supplies Corporation and if the amount is not paid, the movable and immovable properties would be attached and sold to realize the said amount. Now, the third respondent is vigorously perusing the request of the second respondent and the petitioner has been put to mental strain and hence, this Writ Petition.

3. The learned counsel for the petitioner submitted that initiation of proceedings under the Revenue Recovery Act, is misuse of power and against the language and spirit of the Act. The Tamil Nadu Civil Supplies Corporation is a registered Company under the Companies Act and it has its own Memorandum and Articles of Association run by



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the Board of Directors. The State Government has no control over the Corporation except to the extent that the Government would lay down the policy of procurement of Paddy and distribution of rice to the ration card holders. The employees are appointed, paid and terminated by the Corporation as per the Service Regulations. The employees are not paid from the Government's fund but by the Corporation. The employees are not governed by the Service Rules of the Government employees and also not governed by the Rules regarding terminal and retirement benefits applicable to the Government Servants. The employees are also not governed by the Pension Rules applicable to the Government Servants. The right of hire and fire policy is with the Corporation and not with the State Government. In such circumstances, invoking the provisions under the Revenue Recovery Act, is unsustainable and abuse of process of law. In support of his submissions, the learned counsel for the petitioner relied on a Judgment of the Division Bench of this Court in *W.A.(MD).No.216 of 2011, dated 24.03.2022 [M.Gananaprakasam vs. The Tamil Nadu Civil Supplies Corporation Ltd., Gopalapuram, Chennai and three others]*.



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4. The learned counsel appearing for the respondents submitted that the petitioner was employed under the second respondent Corporation and was imposed with recovery towards loss caused to the Corporation in the procurement of paddy and the recovery was imposed on the eve of retirement and an amount of Rs.28,42,731/- was sought to be recovered by invoking provisions of the Revenue Recovery Act. The second respondent simultaneously sought the help of the third respondent to recover the said amount under the Tamil Nadu Revenue Recovery Act, and the third respondent has since been taking steps under the said Act.

5. In view of the above submissions, the second respondent/Corporation can workout the remedy in the manner known to law. Recovery not sought to be made under the Tamil Nadu Revenue Recovery Act, is not correct because there is no rule itself for the recovery like in the case on hand and therefore, the recovery is not to be made under the Tamil Nadu Revenue Recovery Act, but by any other law, which can govern under the Pension Rules, the second respondent can recover the same from the petitioner.



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6. With the above direction, this writ petition is disposed of. No order as to costs. Consequently, the connected miscellaneous petition stands closed.

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation Case:Yes/No

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