



W.P(MD)No.7012 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 08.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7012 of 2023

and

W.M.P.(MD)Nos.6631 and 6632 of 2023

Azhagappa Spinning Mills Workers Union,
Rep. by is President, S.Chinnasamy,
S/o. Sankarappa Naicker,
Opp. Mill Premises, Muthukudi,
Rajapalayam 626 117.

... Petitioner

Vs.

- 1.The Regional Provident Fund Commissioner,
1, Lady Doak College Road,
Chokkikulam, Madurai 02.
- 2.The Assistant Provident Fund Commissioner,
Bhavishya Nidhi Bhavan,
NGO B Colony, Perumalpuram,
Tirunelveli - 07.
- 3.The Recovery Officer,
EPFO, Old Virudhungar Road,
Senayapuram Colony,
Sivakasi 626 189.
- 4.The Village Administrative Officer,
Therku Venganallur Village,
Rajapalayam Taluk,
Virudhunagar District.



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5.Sri Laxmi Cotton Traders Limited,
Rep by Director,
10, Homi Mody Street,
Fort, Mumbai 400 023.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 3 to consider the representation dated 27.03.2023 and protect the properties of Azhagappa Spinning Mills Private Limited already attached towards Employee Provident Fund Dues.

For Petitioner : Mr.Raguvaran Gopalan,
For Mr.K.Prabhakar

For Respondents : Mr.P.Karthick,
Standing Counsel for R1 & R3.
Mr.M.Mahaboob Athiff,
Standing Counsel for R2.
Mr.T.Villavan Kothai,
Addl. Government Pleader for R4.
Mr.V.Vijayarathinam for R5.

ORDER

Heard the learned counsel on either side.



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2.The writ petitioner is a Labour Union. The cause of action for filing this writ petition was that the fifth respondent had obtained order in the Execution Court to proceed against the properties of the petition-mentioned company. The petitioner's counsel would contend that the provident fund dues would constitute the first charge on the properties of the company and if the fifth respondent is allowed to execute its decree, the workers will not able to be realize their dues.

3.It is beyond dispute that the provident fund dues will constitute the first charge. But Provident Fund Organization cannot remain quiet and also prevent the decree holder from realizing the fruits of the decree. I, therefore, direct the Provident Fund Organization to take emergent steps to enforce their order against the properties of the petition-mentioned company. The Provident Fund Organization shall associate the fifth respondent also in the process. The fifth respondent is permitted to realize its dues by executing the decree against the properties of the petition-mentioned company. But this would be subject to the charge of EPF on the petition-mentioned properties. EPFO will take recovery steps and enforce this order, if there is no other legal impediment.



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G.R.SWAMINATHAN, J.

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4.This writ petition is disposed of accordingly. No costs.
Consequently, connected miscellaneous petitions are closed.

08.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

The Village Administrative Officer,
Therku Venganallur Village,
Rajapalayam Taluk,
Virudhunagar District.

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