



WP (MD) No.10959 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP (MD) No.10959 of 2014

and

WMP (MD) No.9123 of 2016

N.Rajasekaran

... Petitioner

Vs

- 1.The Director of Handlooms and Textiles,
Kuralagam, Chennai - 600 108.
- 2.The General Manager,
The Tamil Nadu Co-Operative Spinning Mills,
Federation Limited (KH279),
Kuralagam, Chennai - 600 108.
- 3.The Registrar of Co-Operative Societies,
MV.Natarajan Maaligai,
Door No.170,
Periyar EVR Road,
Kilpauk, Chennai.
- 4.The Deputy Registrar of Co-Operative Societies
cum Managing Director,
Pudukottai District
Co-Operative Spinning Mills Limited,
TR (H97) Aranthangi - 614616.
- 5.The Managing Director /
Co-operative Sub Registrar,
A363, Virudhunagar Agricultural Products,
Co-operative Marketing Society Limited,
Mallankinaru Road,
Virudhunagar - 626 001.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus calling for the records relating to the impugned order dated 02.06.2014 passed by the 5th respondent and quash the same and consequently direct the 3rd respondent to issue suitable directions to the 5th respondent to pay the sum of Rs.19,91,089/- (Rupees Nineteen Lakhs Ninety One Thousand and Eighty Nine Only) to the petitioner towards interest calculated till April, 2013 as fixed by the arbitrator in arbitration award dated 02.05.2005 in arbitration case number 2 of 2005 confirmed by this Court by order dated 05.01.2007 in OP.No.533 of 2005 and by order dated 12.04.2013 in OSA No.71 of 2007 and OSA No.171 of 2007.

For petitioner : Mr.J.Bharathan
For Respondent : Mr.S.Shaji Bino,
Nos.1 to 4 Special Government Pleader
For Respondent :Mr.D.Shanmugaraja Sethupathi
No.5

ORDER

This writ petition has been filed challenging the impugned order dated 02.06.2014 passed by the 5th respondent and to consequently direct the 3rd respondent to issue



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suitable directions to the 5th respondent to pay the dues along with interest.

2.The petitioner is a cotton merchant and he is said to have supplied cotton to the 4th respondent spinning mill through 5th respondent. However, the 4th respondent did not make payment for the cotton purchased by them. One Kanniah Raj, an affected person filed a public interest litigation before this Court in WP.No.12316 of 1999 for a writ of mandamus to direct the government to take appropriate steps to make payment due by the 4th respondent spinning mill to the cotton merchants with 18% interest per annum from the date of outstanding till the date of realisation. This public interest litigation was entertained by this Court and on 12.10.1999 a Division Bench of this Court has passed an order directing the government to make substantial payment. Accordingly partial amount has been paid on installments and thereafter, this Court has also appointed an Arbitrator in this issue for settlement of the dues by the Government and the spinning mill to the cotton merchants. The Arbitrator as directed by the Government has



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interest payable by the 4th respondent as fixed by the Arbitrator with subsequent interest till the date of payment. Though the 5th respondent has received the amount from the government has failed to pay the same to the petitioner and therefore, this petitioner filed a writ petition before this Court in WP(MD)No.6547 of 2014 for a writ of mandamus for a direction to the 5th respondent to pay the balance amount together with interest to the petitioner herein as per the award passed by the Arbitrator on 02.05.2005. This Court by order dated 16.04.2014 has disposed of the said writ petition directing the 5th respondent to consider the representation to the petitioner dated 01.04.2004 in the light of the judgment passed in OSA.No.71 of 2007 within a period of eight weeks from the date of receipt of a copy of the order. Thereafter the 5th respondent has passed the impugned order on 02.06.2014 that there is no due payable by the 5th respondent to the petitioner.

5.The learned Counsel for the petitioner by relying on the award passed by the Arbitrator has made his submissions



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that the 5th respondent has received the due amount from the 4th respondent, but the 5th respondent has failed to pay the amount to the petitioner.

6.The learned Counsel appearing for the 5th respondent submits that the at the outset the writ petition is not maintainable in view of the judgment passed by the Hon'ble Full Bench in Marappan Case. The petitioner is the Member of the 5th respondent society and if he is having any grievance with regard to the transaction, he is having remedy before the Deputy Registrar of Co-Operatives under Section 90 of the Tamil Nadu Co-Operative Societies Act.

7.The learned Counsel further submits that the sale consideration was paid to the petitioner periodically. As per the audit report, the 5th respondent was liable to pay the sum of Rs.1,81,303.36 to the petitioner towards the sale consideration. This respondent has paid a sum of Rs.63,206/- vide cheque No.1418 dated 19.02.2001. Subsequently the petitioner was paid a sum of Rs.45,147.71 through the cheque No.1424 dated 09.03.2001. Thereafter,



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the petitioner was subsequently paid Rs.71,978.10 by cheque No.6166 dated 26.07.2002. All the above cheques were encashed and entire amount and as such the entire outstanding was paid to the petitioner as on 26.07.2002 itself. As per the audit report for the financial year 2002-2003, the last payment was made to the petitioner in the above financial year. In the audit report for the year 2002- 2003 it was not shown any balance to be paid to the petitioner. Therefore, as per the records and audit report, the entire amount was paid to the petitioner in the year 2002 itself.

8.This Court considered the rival submissions and perused the materials placed on record.

9.The preliminary objections raised by the 5th respondent can be rejected on the ground that the liability has been fixed pursuant to the orders of this Court in a public interest litigation in WP(MD)No.12316 of 1999 and further direction was issued by this Court in WP(MD)No. 6547 of 2014. The 5th respondent has not taken any such



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stand in the earlier round of litigation. The petitioner has made claim pursuant to the award passed by the Arbitrator appointed as directed by this court in WP(MD)No. 12316 of 1999. This order was also tested in OP.No.533 of 2005 and also in OSA.No.71 of 2007, wherein this Court has held as against the government and society that the 5th respondent is liable to pay the amount as directed by the Arbitrator in his award dated 02.05.2005. Though the respondents submit that the payments have been made, they have not paid the subsequent interest amount as directed by the Arbitrator and therefore, this writ petition is allowed with a direction to the 5th respondent to pay the interest as directed by the Arbitrator in his award dated 02.05.2005. No costs. Consequently connected miscellaneous petition is closed.

06.06.2023

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B.PUGALENDHI, J.

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