



WP (MD) No.11216 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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Gandhi Seva Sangam
represented by its Secretary,
V.Manickavasagam,
Chatrapatti,
Oddanchathiram Taluk,
Dindigul District.

... Petitioner

Vs

1.The Chief Executive Officer,
Khadi and Village Industries Commission,
Ministry of Micro Small and Medium Enterprises,
Irla Road, Vile Parle West,
Mumbai - 400 056.

2.The Director,
KVIC Divisional Office,
No.10, Bypass road,
Madurai -10.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of mandamus, directing the respondent to issue no due certificate and release the petitioner's title deeds and other documents and withdrawn the Revenue Recovery Act proceedings against the petitioner Sangam based on the one time settlement dated 03.03.2016.



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For petitioner : Mr.S.Karthik
For Respondents : No representation

ORDER

This writ petition is filed for a writ of mandamus directing the 1st respondent to issue no due certificate and release the petitioner title deeds and other documents based on the one time settlement dated 30.03.2016.

2.The case of the petitioner is that the petitioner is Sangam is running an Orphanage and also manufacturing Khadi products. They have availed loan to the tune of Rs.13 Lakh from the 1st respondent. However there were dues on repayment. Therefore, the 1st respondent directed the petitioner to pay a sum of Rs.6,64,848 and also initiated recovery proceedings. Challenging the same the petitioner has earlier filed a writ petition in WP(MD)No.10735 of 2012 and this Court has granted interim stay. While so, a proposal was made for one time settlement and the petitioner was directed to pay a sum of Rs.20,76,041/-. According to the learned Counsel for the petitioner in view



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of the one time settlement, the penal interest of Rs.6,37,490/- was waived and it was also communicated to the petitioner vide letter in NO.DOM/XXVII/Legal Recovery/2009-10/11080 dated 25.03.2010.

3.The learned Counsel claims that as per one time settlement, the petitioner has paid the entire dues of Rs.20,76,042/- on 21.04.2016, for which receipts were also issued on 03.05.2016. The 2nd respondent has also recommended for closing of the accounts of this petitioner. However the 1st respondent has not accepted the same and therefore, the petitioner is before this Court.

4.There is no representation for the respondents. The respondents have filed their counter affidavit and the relevant portion is extracted under:

"As instructed by the Directorate of Legal Affairs vide their letter No.LA/Monitoring Court Cases/2015-2016, dated 03.12.2015, this respondent office has called the officer bearers of the petitioner institution for having discussions to explore the possibilities for out



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of court settlement. As requested by this respondent, the office-bearers of the petitioner institution has visited the officer of the Divisional office, KVIC, Madurai on 30.03.2016 and discussed the matter in detail with the official staff of Divisional Office, KVIC, Madurai and agreed to remit the entire loan amount along with interest to KVIC as one time settlement. But the petitioner institution has remitted a sum of Rs.20,76,041/- through Bank of India, by way of DD on 21.04.2016 excluding normal interest and penal interest, ie., 65,832/-, Normal interest + Rs.9,11,304/- penal interest = total sum of Rs.9,77,136/- is outstanding and the petitioner institution is liable to pay the above said balance amount. Instead of paying the above said balance amount, the petitioner institution has come forward before this Court to get no due certificate and release the petitioner's title deeds and other documents and withdrawn the Revenue Recovery Act proceedings. Hence the petitioner institution has not approached this Court with clean hands. The petitioner has suppressed all the material facts and filed this petition on false grounds. On the advice letter of the 1st respondent dated 04.05.2022, this respondent sent a letter dated 05.05.2022 to the petitioner institution



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regarding the balance amount of Rs.9,77,136/-.

The writ petitioner is not entitled to get the relief as prayed in the writ petition without paying the above said balance amount. If the writ petition is allowed, great prejudice will cause to the respondents."

5.It is admitted that the petitioner Sangam has availed loan from the respondents and there were dues in repayment. The petitioner has referred to the minutes of the meeting in respect of one time settlement arrived at between the parties on 30.03.2016 and as per the minute, the penal interest of Rs.6,37,490/- was waived.

6.In view of the above, this writ petition is disposed of with a direction to the petitioner to submit a fresh representation along with the minutes of the meeting held on 30.03.2016 and the proposal made by the 2nd respondent for one time settlement, within a period of two weeks from the date of receipt of a copy of this order to the 1st respondent, who in turn shall consider the same and take a decision with regard to the issuance of no due certificate and release of the documents within a period of twelve



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weeks from the date of receipt of a copy of this order.

No costs.

08.06.2023

dsk

To

- 1.The Chief Executive Officer,
Khadi and Village Industries Commission,
Ministry of Micro Small and Medium Enterprises,
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Mumbai - 400 056.
- 2.The Director,
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B.PUGALENDHI, J.

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