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W.P.No.11392 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.11392 of 2009

and

MP.Nos.1 to 3 of 2009

Salem Regional Mill Thozilalar Sangam (FITU)

Jawagar Mills

Regn.No.1049/Salem

Represented by its Secretary

P.Gajendiran

Thirukumaran Building

Four Road, Salem 9.

... Petitioner

Vs.

1.The Management

Jawahar Mills Limited

Nehru Nagar

Salem.

2.Indian Overseas Bank

Represented by its Regional Manager

Ideal Garden Complex

2nd Floor, Five Roads

Salem 635 004.



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3.The Authorized Officer
Indian Overseas Bank
No.6/671, Car Street
Salem Main Branch
Salem 636 001.

4.V.S.Murugan
Proprietor, M/s.Hari Tex
No.63, Patel Road
Coimbatore.

5.S.K.Sengoda Gounder
6.S.Jagadeesan

7.The Sub-Registrar
Sooramangalam
Salem.

8.The District Registrar
Salem.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to disburse the arrears of salary for the period of 2003-2004 and bonus for the period 2001-2004 and other statutory benefits to the members of the petitioner union and for other consequential orders.



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For Petitioner : Mr.R.Jayaprakash
for M/s.Sun Associates

For Respondents : Mr.F.B.Benjamin George
for R2 & R3

Mr. P.Sukumar for R5 & R6
(No appearance)
R4- left

ORDER

This Writ Petition is filed by the petitioner namely Salem Regional, Panchalai, Thozhilalar Sangam bearing Registration No.1049/Salem, for a Writ of Mandamus directing the respondents to disburse the arrears of the salary for the period 2003-2004 and bonus for the period 2001-2004.

2. It is seen that originally there was a dispute with reference to the employees and the management of one Jawahar Mills Limited. The assets of the said Jawar Mills Limited were sold by the second respondent namely Indian Overseas Bank to third parties namely the fourth respondent V.S.Murugan, etc. It seems that it has been sold with the condition that if



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there is any claim with reference to the Workmen, the same shall be settled by the purchasers under the SARFAESI Act. Under these circumstances, in an earlier round of litigation, the matter was pending before this Court in W.A.No.50 of 2007. It can be seen that three trade unions were the appellants in the said Writ Appeal. The subsequent purchaser as well as the bank as well as the original management were the respondents 1 to 4. The other purchaser and the various other trade unions who are not arrayed as appellants were also made as respondents. All the Workmen were also included as party respondents totalling 239 in number in the said Writ Appeal.

3. Pending the Writ Appeal, the parties entered into an amicable settlement and pursuant to the settlement, the subsequent purchasers agreed to disburse the amount of wages etc and arrears etc., which was agreed by the parties and the total sum of Rs.3,93,18,505/- was agreed to be remitted to the credit of the various workmen which seems to be agreed as full quit. The terms of the said Memo of Compromise duly recorded by this Court in the Writ Appeal categorically states that, on receipt of the amount as aforesaid in full and final settlement, there shall not be any claim whatsoever from the



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workers either against the management or against the auction purchaser or their successor in interest in respect of their services under the fourth respondent Mill. It can be seen that the present claim is made by a totally different union. It is not known why this present union did not implead itself in the earlier proceedings.

4. Be that as it may, the amount of arrears now claimed is pursuant to the order dated 27.08.2005 made by the Labour Court by way of claim petitions under Section 33 C (2) of the Industrial Disputes Act. It can be seen that it is a common order passed in the various claim petitions filed by the individual employees and not by the petitioner Union. The said individual employees also seem to be parties in the earlier Writ Appeal. Therefore, when the claim petitions as well as the dispute is not filed by the petitioner union and when it is filed by the employees in their individual names, the Writ Petition filed by the petitioner Mill to disburse the said arrears in the facts and circumstances of the case where the employees were party to the earlier Writ Appeal proceedings and there seems to be an amicable settlement, cannot be now entertained at the instance of the Trade



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5. If at all the aggrieved individual Workmen claim that any amount is due and payable, it is for them to workout their remedies in the manner known to law. Keeping that remedy open for the individual workman to workout, if only the matter is not settled finally with reference to them by way of the earlier settlement, this Writ Petition is closed. No costs. Consequently, connected Miscellaneous Petitions are closed.

18.12.2024

Neutral Citation : No
dna

To

1.The Regional Manager
Ideal Garden Complex
2nd Floor, Five Roads
Salem 635 004.

2.The Sub-Registrar
Sooramangalam
Salem.

3.The District Registrar
Salem.

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