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W.A.Nos. 376 & 377 of 2



IN THE HIGH COURT OF JUD ICATURE AT MADRAS

Reserved on 17.03.2025	Delivered on 08.04.2025
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CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.Nos. 376 & 377 of 2025
and
C.M.P.Nos. 3035 & 3039 of 2025

W.A.No.376 of 2025

N. Senthamarai

... Appellant

Vs.

1.Government of Tamil Nadu,
Rep. by its Secretary,
Department of Revenue,
Fort St. George, Chennai ~ 9.

2.The District Collector,
Erode District, Erode.

3.Raja Packing Company,
Rep. by K. Eeswaramoorthy,
Suryampalayam,
Vasavi College Post, Erode ~ 638 316.

4.S. Rajendran

5.S. Sebastain

6.C. Yuvaraj

...Respondents



W.A.No.377 of 2025

N. Senthamarai, Chairman,
Kandasamy Spinning Mills,
No.230, Salem Main Road, Kumarapalayam,
Namakkal District.

... Appellant

Vs.

1. S. Rajendiran
2. C.Yuvaraj
3. S.Sebastian
- 4.The Government of Tamil Nadu,
Rep. by its Secretary,
Department of Revenue,
Fort St. George, Chennai - 600 009.
- 5.The District Collector,
Collectorate
Erode - 638 011,
Erode District.
- 6.The Tahsildhar
Erode-638 001,
Erode District.
- 7.The Management of Raja packing,
Rep. by its Proprietor Mrs.N.Senthamarai,
Suriyamapalayam,
Vasavi College Post,
Erode District.

Common Prayer: Writ Appeal filed under Clause 15 of the Letters Patent,
against the order dated 18.12.2024 made in W.P.Nos.19047 & 25783 of
2010.



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W.A.Nos. 376 & 377 of 2



For Appellants : Mr.N.Manokaran in both appeals

For Respondents : Mr.S.John J.Raja Singh

Additional Govt. Pleader for R4 to R6 in

W.A.No.377 of 2025 and

R1 & R2 in W.A.No.376 of 2025

R1 to R3 and R7 - No Appearance

R3 to R6 - No Appearance in

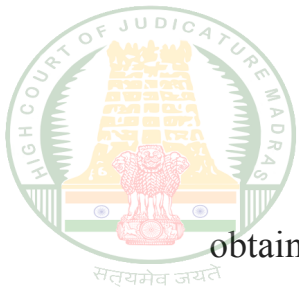
W.A.No.376 of 2025

COMMON JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

Challenge in these two appeals is to the order of the writ Court made in W.P.Nos.19047 & 25783 of 2010 dated 18.12.2024. In W.P.No.19047 of 2010, the challenge was to the order of the District Collector, Erode dated 10.05.2010 and W.P.No.25783 of 2010 was filed by the workmen for a mandamus directing the respondents 1 to 3 namely, the Authorities to recover the dues to the workers from the 4th & 5th respondents.

2. The facts, which led to filing of the above Writ Petitions are as follows:-



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The workmen, who were the petitioners in W.P.No.25783 of 2010 obtained an award in their favour in I.D.Nos. 252 to 254 & 258 of 1992 on 03.11.1995, in and by the award, their non-employment by the Management of Raja Packing Company was held to be illegal and they were directed to be reinstated into service with continuity of service. Since they were not reinstated, despite the award of the Labour Court, they filed writ petitions in W.P.Nos.37199 to 37201 of 2007 for recovery of wages and other benefits, which was computed in C.P.Nos. 299 & 301 of 2005 by the Industrial Tribunal.

3. While filing the writ petitions, the workers showed the name of the 5th respondent as a Proprietor of M/s.Raja Packing Company for the first time and when the petition came up for hearing, an objection was taken by the said N.Senthamarai to the effect that she was totally unconnected with Raja Packing Company which is a partnership firm and she has nothing to do with the same. Upon such objection having been raised, the learned counsel for the workmen submitted before the writ Court that the name of the 5th respondent would be given up and an endorsement would be made. After recording the same, this Court disposed of the writ petitions directing



the District Collector to ensure that the amounts due under the award passed will be recovered from the Management of Raja Packing Company.

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4. However, later, a petition in M.P.No.1 of 2009 was filed to clarify the order dated 07.11.2008 to the effect that the Certificate of Recovery issued under Section 33C(1) of the Industrial Disputes Act, 1947 would be enforced against the true owner of M/s.Raja Packing Company. This Court disposed of the said petition, observing as follows:-

"3. While passing the order in the above writ petition, I have directed the second respondent to recover the amount from the management of Raja Packing Company against which award was obtained by the petitioners. Hence, it is needless to say that the second respondent shall recover the amount from the management of Raja Packing Company whoever is in management of the said company since the award was obtained against the Company and not against an individual owner. The second respondent is directed to do so within a period of one month from the date of receipt of a copy of this order. Further, the District Collector is at liberty to ask the petitioners to appear before him if he feels that some clarification is required from them. The Clarification application is ordered accordingly."



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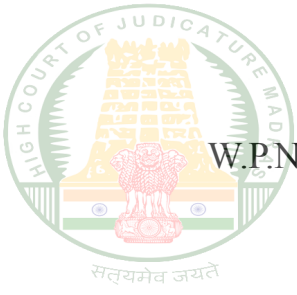
5. Pursuant to the aforesaid observations made in the clarification petition, the District Collector took up the enquiry and issued notices to various parties. After enquiry, by order dated 10.05.2010, the District Collector found that N.Senthamarai, Managing Director of M/s.Kandasamy Spinning Mills / the appellant before us in these appeals is the actual owner of M/s.Raja Packing and directed the arrears to be recovered from her. It is this order that was subject matter of challenge in W.P.No.19047 of 2010. Consequent upon this order, the workmen sought for a mandamus for recovery from the appellant before us in W.P.No.25783 of 2010.

6. The Writ Court heard both the writ petitions together and disposed them by a common order concluding that the findings of the District Collector that the appellant is actually the owner of M/s.Raja Packing and the amount due as per the order dated 02.11.2001 would be recovered only from the appellant. On the said finding, the learned single Judge disposed of the writ petition in W.P.No.25783 of 2010 with a direction to the Authorities to recover the monies payable under the awards from the appellant, while dismissing W.P.No.19047 of 2010, in which, the findings of



the Collector were under challenge. The Writ Court also rebuked the contention that in the order made in the earlier writ petition, this Court had held that the appellant would not be liable, after referring to the order passed in the clarification petition which left the issue open to be decided by the District Collector. It is, this order of the writ court which is under challenge before us.

7. Mr.N.Manokaran, learned counsel appearing on behalf of the appellant would vehemently contend that the District Collector had brushed aside the earlier order of this Court wherein, when some of the awards were questioned before this Court and when an attempt was made to recover the money from the appellant, this Court had dismissed the Writ Petition concluding that it is the Management of M/s.Raja Packing, who will have to pay. It is the contention of Mr.N.Manokaran that the District Collector has over-ruled the earlier judgments of this Court. He would rely upon the Award in ID.No.77 of 1987 wherein, the Industrial Tribunal came to the conclusion that it is the lessee who will have to pay the wages and not the appellant. Reliance is placed on the observations of the Labour Court which were confirmed by this Court in its order dated 07.11.2008 made in



W.P.No.37199 to 37201 of 2007.

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8. As rightly pointed out by the writ Court, order made in those writ petitions was clarified and this Court held that the District Collector will conduct an enquiry and find out who was in actual Management. It is not in dispute that pursuant to the said order, the District Collector had issued notices to the appellant and the appellant had not appeared before the District Collector. The Writ Court had referred to the entire facts and found that Kandasamy Spinning Mills which came into being in the year 1969 was the owner of the entire premises of the Mill and the cone winding unit alone was leased out to one A.S.Mani and two others in the year 1985 and they were carrying on business in the name of M/s.Jupiter Packing Company.

9. The partnership in the name of M/s.Jupiter Packing Company was reconstituted, inducting three different persons namely, D.K.Rajendran, S.P.Thangavelu and K.L.Yuvaraj as the partners. When the lease agreement was renewed, the new partners were made parties to the lease agreement. On 27.10.1990, M/s.Raja Packing Company was reconstituted wherein, Mr.D.K.Rajendran and S.P.Thangavelu had retired and in their place



R.Selvamani and Soudappan were inducted in the firm along with Yuvaraj.

A fresh lease agreement was entered into on 27.10.1990. The Industrial

Dispute, which was raised earlier by the workmen, was proceeded against

M/s.Raja Packing Company but however, in the claim petition, Kandasamy

Spinning Mills was impleaded.

10. The Industrial Tribunal rendered a finding that the employees of Raja Packing Company have no claim over the Kandasamy Spinning Mills. The present Industrial Dispute was filed in the year 1992 by these workmen being aggrieved by their non-employment by Raja Packing Company and an award came to be passed against Raja Packing alone. The name of the appellant was not at all mentioned in the claim petition or in the cause title. It was one Eswara Moorthy, who was shown as a partner of Raja Packing Company and he challenged the award in W.P.Nos.7197 to 7200 of 1996. A conditional order was passed and the same was complied with and the workmen was withdrew the amount deposited pursuant to the conditional order.



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11. The said writ petitions were dismissed and the challenge by Eswara Moorthy in W.A.Nos. 535, 595 & 938 of 1998 also failed. All along these proceedings, notices were issued by the statutory authorities only to Raja Packing Company and in none of the earlier proceedings, Senthamarai was shown as the owner. It was under these circumstances when the earlier writ petitions were filed by the workmen by including Senthamarai, an objection was taken and the counsel for the workmen readily agreed to remove the name of Senthamarai. The said order had become final. The present attempt is made to make Senthamarai liable for the dues of Raja Packing Company.

12. Highlighting the above, the learned counsel for the appellant had contended before the writ Court that the Collector had not conducted a fair enquiry. It is only the trade union representative, who is a sitting MLA, who had hijacked the proceedings before the Collector. It was also contended that no opportunity was given to the appellant to put forth her case. It was contended that due to the death of the counsel, the appellant could not effectively represent her case before the Collector.



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13. These contentions were stoutly resisted by the workmen claiming that the so called partners have categorically deposed before the Collector that they were either Clerks or Drivers working in the Company and were loyal workers of the Managing Director, Mr.J.K.K.Nataraja Chettiyar who is the father of the appellant, Senthamarai. According to them, they had just signed on the dotted lines on the instructions of the said Nataraja Chettiyar and whenever persons employed as Drivers and Clerks left their services, they were replaced with the new incumbents and the new incumbents were made partners to the Packing Company. It was also contended that cone winding being an activity of a Spinning Mill, cannot be treated as a separate Unit and even the workers, who were employed under such arrangement by which cone winding is run by a different person should also be treated as employees of the Mill only in view the Section 21(4) of the Contract Labour Regulation and Abolition Act, 1970.

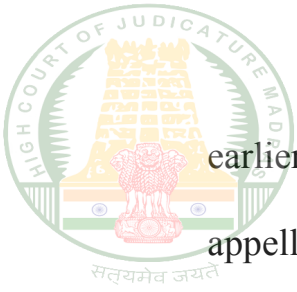
14. We find that the learned single Judge had considered the entire evidence and had, as of fact, found that these workmen were, in fact, workers of the main Mill namely, Kandasamy Spinning Mills. The learned



Judge has gone through the statements contained in the impugned order as a whole and has recorded a finding that those statements inspire confidence of the Court.

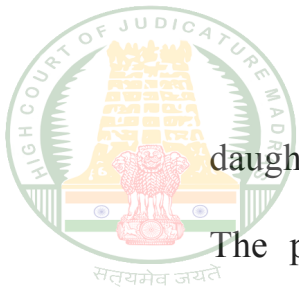
15. Though Mr.N.Manokaran would vehemently contend that the statements were recorded and the representative of the Union was allowed to cross-examine its own witnesses, he was not able to project any material which would impel us to disagree with the conclusions of the learned single Judge. In fact, the alleged partners have claimed that they were workmen and they were also given good conduct certificate by the appellant. Those documents were also placed before the Collector. The learned single Judge has also found that the partners of M/s.Raja Packing Company were at various points of time employed in the Company or in private employment with the erstwhile Managing Director of the Company, Mr.J.K.K.Nataraja Chettiyar who is the father of the appellant.

16. Very serious allegations of forgery were also made by one of the partners of Raja Packing to the effect that he did not signed the papers which were submitted before this Court while challenging the awards in the



earlier instance. On the claim of lack of opportunity, we find that the appellant has to blame herself. Despite several notices issued, summons were returned as refused and when the enquiry was to be undertaken pursuant to an order of this Court, to which, the appellant was a party, the behaviour of the appellant in refusing to attend the enquiry, cannot be considered to be a denial of opportunity. A perusal of the order of the Collector shows that the District Collector, as rightly observed by the learned single Judge, recorded that the appellant had ignored all the notices issued.

17. As regards the claim that this Court has already decided that M/s.Raja Packing is a separate entity, the same cannot be countenanced at all because the question as to who is the owner of the Raja Packing was never decided earlier and though this Court held that the execution proceedings must be against Raja Packing who represents Packing Company was a larger issue which was not decided and this Court while disposing of the clarification petition has directed the District Collector to decide the issue and the Collector, after notice, based on evidence come to the conclusion that it was J.K.K.Nataraja Chettiyar and thereafter, the

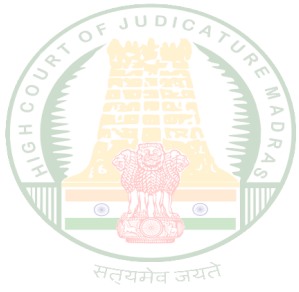


daughter / the appellant herein were the owners of Raja Packing Company.

The partnership was only a make believe affair and it was never in existence.

18. In the light of the factual findings recorded by the District Collector as well as the learned single Judge, we are unable to interfere with the said factual findings in the absence of any reliable material placed before us, forcing us to come to a different conclusion.

19. Though lack of opportunity is projected as a main ground by Mr.N.Manokaran, we find that the appellant will have to blame herself and cannot cite lack of opportunity as a reason. As we had pointed out, several summons issued to the appellant were returned as refused. Attempts made to serve the notices for the enquiry through the Tahsildar had also failed. All this happened, when appellant was aware of the fact that the District Collector had been directed to enquire into the issue by this Court by the order in the clarification petition in M.P.No.1 of 2009.



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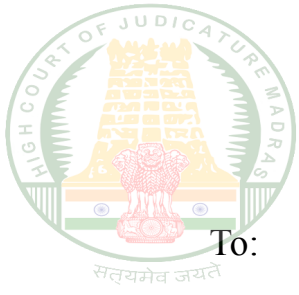
20. Having not responded to the notices and having refused to receive the notices, the appellant cannot claim that she was denied an opportunity.

We therefore, do not see any reason to interfere with the order of the writ court. These Writ Appeals therefore, fail and they are accordingly, **dismissed**. No costs. Consequently, connected miscellaneous petitions are closed.

(R.S.M., J.) (G.A.M., J.)
08.04.2025

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Index: Yes
Speaking order
Neutral Citation : No



W.A.Nos. 376 & 377 of 2



To:

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1. The Secretary,
Government of Tamil Nadu,
Department of Revenue,
Fort St. George, Chennai - 600 009.
2. The District Collector,
Collectorate
Erode - 638 011,
Erode District.
3. The Tahsildhar
Erode-638 001,
Erode District.



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R.SUBRAMANIAN, J.
and
G. ARUL MURUGAN, J.

KKN

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