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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.09.2025

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THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

W.P.No. 8622 of 2019
And
W.M.P.No. 9143 of 2019

1. M.Selvarasu
2. P.Natarajan ... Petitioners

..Vs..

1. The Principal District Judge
(Presiding Officer of the Co-operative
Tribunal under the Tamil Nadu
Co-operative Societies Act, 1983),
Principal District Court,
District Court Campus,
Asthampatti, Salem 636 007.
2. Sub-Registrar of Co-operative Societies
(Arbitrator under Section 90 of the Tamil Nadu
Co-operative Societies Act, 1983)
Kolathur,
Mettur Taluk
Salem District.
3. The Secretary
The Mettur Chemicals Employees
Co-operative Society Ltd.,
Mettur Dam R.S.,



Salem District.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records from the first respondent relating to the judgment and decree made in C.M.A.(C.S.) No. 7 of 2011 dated 19.07.2018 confirming the award of the second respondent made in case No. 209/2009-2010 dated 22.12.2010 and quash the same.

For Petitioners :: Mr. S.Ayyathurai
for Mr.M.Elumalai

For 2nd Respondent :: Mr. N.Muthusamy
Government Advocate

For 3rd Respondent :: Mr.L.P.Shanmugha Sundaram

ORDER

Heard Mr. S.Ayyathurai for Mr.Elumalai, learned counsel appearing for the petitioners, Mr.N.Muthusamy, learned Government Pleader appearing for the second respondent and Mr.L.P.Shanmugha Sundaram, learned counsel appearing for the third respondent.

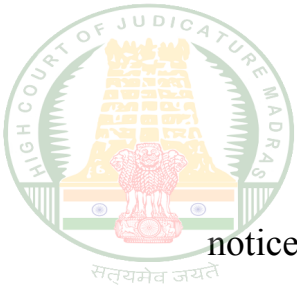
2. This Writ Petition has been filed in the nature of a Certiorari



calling for the records from the first respondent relating to the judgment and decree made in C.M.A.(C.S.)No. 7 of 2011 dated 19.07.2018 confirming the award of the second respondent made in Case No. 209/2009-2010 dated 22.12.2020 and quash the same and award costs.

3. The first petitioner was an employee of Mettur Chemicals. The third respondent Society is a Co-operative Society of employees of the said Mettur Chemicals.

4. On 07.03.2007, the first petitioner availed a loan of Rs.2,40,000/- . He assured the third respondent that he will repay the same in 100 equal installments with the amount bearing 12% interest p.a. In default, he agreed that he will pay 15% on the said amount. As an evidence of the transaction, the first petitioner executed a document and the second petitioner stood guarantee for the same. Subsequently, the petitioners lost their employment and consequently, they defaulted. Being left with no other option, the third respondent invoked Section 90 of the Tamil Nadu Co-operative Societies Act, 1983 against the petitioners. The second respondent / Sub Registrar was appointed as an Arbitrator. He issued



notices to both the writ petitioners. The writ petitioners did not put up a contest. Consequently, the second respondent passed an award directing the petitioners to pay a sum of Rs.2,20,165/- together with future interest at the rate of 15% p.a.

5. Aggrieved by the same, the petitioners moved the first respondent by way of a statutory appeal. They invoked Section 152(i)(a) of the Tamilnadu Cooperative Societies Act. The appeal was received as C.M.A.(CS)No. 7 of 2011. The learned Principal District Judge called for the records, heard the parties and passed a Judgment on 19.07.2018. In his verdict, he confirmed the award with costs.

6. Aggrieved by the said order, the petitioners are before this Court by way of this Writ Petition.

7. I have carefully considered the submissions made on either side and have gone through the records and have applied my mind to the facts and circumstances of the case.



8. The transaction between the writ petitioners and the third respondent is not in dispute. The only plea that has been raised by Mr.S.Ayyathurai is that there had been a violation of natural justice at the hands of the second respondent prior to the passing of the award. Hence, he pleads that the proceedings be set aside and remanded for fresh disposal before the second respondent.

9. Per contra, the learned counsel for the respondents pointed out that summons had been served on both the petitioners and they had not put up a defence before the second respondent. Inviting my attention to paragraph No. 6 of the judgment dated 19.07.2018 in C.M.A.(CS).No. 7 of 2011, learned counsel submitted that the learned First Appellate Judge had taken efforts to go through the original records and concluded that it was the writ petitioners, who had failed to appear before the authority and consequently, the order of the appellate authority does not require interference.

10. The fact remains that the petitioners had been put on notice and



they did not put up a defence. The original transaction dated 07.03.2007 and the fact that the second petitioner stood as guarantor for the said transaction is not in dispute. It is too well settled that a person, who borrows money, is duty bound to repay the same. For more than 15 years, the petitioners have made the third respondent run from pillar to post to recover an amount which lawfully belongs to it.

11. When this aspect was pointed out to Mr.S.Ayyadurai, he pleaded that the petitioners had been dismissed from service and since they had initiated proceedings under the Industrial Disputes Act, they were not in a position to repay. The difficulty to repay cannot be a ground to repudiate the principal transaction itself. Therefore, despite the vehement pleas of Mr.S.Ayyathurai, I am not inclined to interfere with the order of the first respondent in confirming the order of the second respondent in so far as it relates to the liability of the petitioners for repayment.

12. At this stage, Mr.S.Ayyathurai pleads that as the workmen are



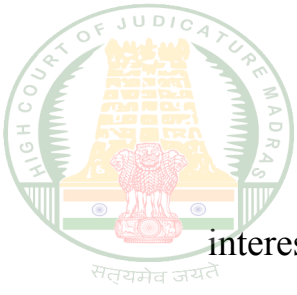
not in a position to repay, mulcting them with interest and default interest might not be equitable.

13. A reading of the order passed in C.M.A.(CS).No. 7 of of 2011 dated 19.07.2018 as well as that of the second respondent in case No. 209 of 2009-2010 dated 22.12.2010 does not reflect both the authorities of having applied their mind on the quantum of the interest. Let not the third respondent insist on its pound of flesh like Shylock. Taking into consideration the difficult situation in which the workmen have been placed, the interest factor alone is being interfered with in this order.

14. The Writ Petition is ordered in the following terms:-

(i) The petitioners will be liable to return a sum of Rs.2,20,165/- together with interest at the rate of 15% p.a., from 07.03.2007 till 22.12.2010.

(ii) For the amount arrived at above (principal together with



interest), the petitioners will liable to pay interest on the aforesaid amount at the rate of 6% p.a., from 23.12.2010 till the date of repayment.

(iii) Time for repayment is three months.

Consequently, connected Civil Miscellaneous Petition stands closed.

No costs.

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Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

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V. LAKSHMINARAYANAN, J.,



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