



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 14.02.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**WP Nos. 10033, 10037, 10040, 10142, 10145, 10146, 10237, 10239
and 10243 of 2020 and**

**WMP NO. 12191, 12195, 12197, 12332, 12333, 12335, 12446, 12447 and
12451 of 2020**

W.P.No.10033 of 2020:

The authorized Officer,
IFCI Limited,
Rep. By its Assistant General Manager,
Continental Chambers,
142, Mahatma Gandhi Road,
Post Box No.3318,
Chennai-600 034.

... Petitioner

Vs.

1. The Managing Director,
Sri Seethavenkatesh Mills Ltd.,
Kadirvedu, Puzhal Post,
Chennai-66.

2. S.Albert
3. P.Ramasamy (Retired)
4. P.Samuel
5. K.Arumugam (Resigned)
6. N.kasthuri
7. C.Vellaisamy
8. K.Mohandoss (Retired)
9. R.Arunachalam

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India,



WEB COPY

praying for the issuance of Writ of Certiorari, calling for the records of the
III Additional Labour Court, Chennai in IA. No.25 of 2019 in CP. No.415
of 2013 and quash the order dated 02.11.2019.

For Petitioner : Mr.P.Raghunathan
For M/s.Gopalan & Co

For Respondents : Mr.K.M.Ramesh, Sr.C
For M/s.V.Subramani RR2 to 5,6,7,9
R1 – No appearance
R4 & R8 (Died)–
Steps due to bring LR's
R3 – NRN

W.P.No.10037 of 2020:

The authorized Officer,
IFCI Limited,
Rep. By its Assistant General Manager,
Continental Chambers,
142, Mahatma Gandhi Road,
Post Box No.3318,
Chennai-600 034.

... Petitioner

Vs.

1. The Managing Director,
Sri Seethavenkatesh Mills Ltd.,
Kadirvedu, Puzhal Post,
Chennai-66.

2, K.Ravi
3. C.T.N.Murali
4. R.Velusamy
5. V.Anbu
6. K.Varadarajulu
7. P.Venkatesan



WEB COPY

8. M.R.Rajendran
9. G.Soundarajan
10. K.solaimalai
11. G.Ellappan
12. R.Giriraj

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records of the III Additional Labour Court, Chennai in IA. No.22 of 2019 in CP. No.412 of 2013 and quash the order dated 02.11.2019.

For Petitioner : Mr.P.Raghunathan
For M/s.T.S.Gopalan & Co.

For Respondents : Mr.K.M.Ramesh, Sr.C
For M/s.V.Subramani RR2 to R4, 6,7,9
R1 – No appearance
R8 – Died (Steps due to bring on LRs')
RR5, 10, 11, 12 – NRN

W.P.No.10040 of 2020:

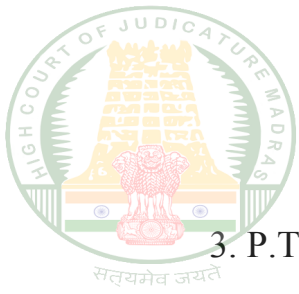
The authorized Officer,
IFCI Limited,
Rep. By its Assistant General Manager,
Continental Chambers,
142, Mahatma Gandhi Road,
Post Box No.3318,
Chennai-600 034.

... Petitioner

Vs.

1. The Managing Director,
Sri Seethavenkatesh Mills Ltd.,
Kadirvedu, Puzhal Post,
Chennai-66.

2. M.Nachammal



3. P.Tamil Selvi

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records of the III Additional Labour Court, Chennai in IA. No.20 of 2019 in CP. No.410 of 2013 and quash the order dated 02.11.2019.

For Petitioner : Mr.P.Raghunathan
For M/s.T.S.Gopalan & Co,

For Respondents : R1 – No appearance
Mr.K.M.Ramesh, Sr.C.
For M/s.V.Subramani RR2 & 3

W.P.No.10142 of 2020:

The authorized Officer,
IFCI Limited,
Rep. By its Assistant General Manager,
Continental Chambers,
142, Mahatma Gandhi Road,
Post Box No.3318,
Chennai-600 034.

... Petitioner

Vs.

1. The Managing Director,
Sri Seethavenkatesh Mills Ltd.,
Kadirvedu, Puzhal Post,
Chennai-66.

2. P.Ravikumar
3. K.R.Sundararajan
4. A.Sampath
5. K.Singaram
6. P.Marisamy

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records of the



WEB COPY

III Additional Labour Court, Chennai in IA. No.24 of 2019 in CP. No.414 of 2013 and quash the order dated 02.11.2019.

For Petitioner : Mr.P.Raghunathan
For M/s.T.S.Gopalan & Co.

For Respondents : Mr.K.M.Ramesh, Sr.C
For M/s.V.Subramani RR2, 3 to 6
R1 – No appearance

W.P.No.10145 of 2020:

The authorized Officer,
IFCI Limited,
Rep. By its Assistant General Manager,
Continental Chambers,
142, Mahatma Gandhi Road,
Post Box No.3318,
Chennai-600 034.

... Petitioner

Vs.

1. The Managing Director,
Sri Seethavenkatesh Mills Ltd.,
Kadirvedu, Puzhal Post,
Chennai-66.

2. S.Mahalakshmi
3. K.Vairavan
4. C.Srinivasan
5. K.Valliammai (Retired)

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records of the III Additional Labour Court, Chennai in IA. No.21 of 2019 in CP. No.411 of 2013 and quash the order dated 02.11.2019.

For Petitioner : Mr.P.Raghunathan
For M/s.T.S.Gopalan & Co.

For Respondents : Mr.K.M.Ramesh, Sr.C



WEB COPY **W.P.No.10146 of 2020:**

For M/s.V.Subramani RR2 to 5
R1 – No appearance

The authorized Officer,
IFCI Limited,
Rep. By its Assistant General Manager,
Continental Chambers,
142, Mahatma Gandhi Road,
Post Box No.3318,
Chennai-600 034.

... Petitioner

Vs.

1. The Managing Director,
Sri Seethavenkatesh Mills Ltd.,
Kadirvedu, Puzhal Post,
Chennai-66.

2. P.Duraisamy
3. S.Muthuraman
4. S.Anbarasan
5. S.Malayalam
6. K.Suresh
7. M.Rajamani
8.P.Sankaran

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records of the III Additional Labour Court, Chennai in IA. No.23 of 2019 in CP. No.413 of 2013 and quash the order dated 02.11.2019.

For Petitioner : Mr.P.Raghunathan

For M/s.T.S.Gopalan & Co.

For Respondents : Mr.K.M.Ramesh, Sr.C



For M/s.V.Subramani RR2 to 8
R1 – No appearance

WEB COPY **W.P.No.10237 of 2020:**

The authorized Officer,
IFCI Limited,
Rep. By its Assistant General Manager,
Continental Chambers,
142, Mahatma Gandhi Road,
Post Box No.3318,
Chennai-600 034.

... Petitioner

Vs.

1. The Managing Director,
Sri Seethavenkatesh Mills Ltd.,
Kadirvedu, Puzhal Post,
Chennai-66.

2. R.Chandrasekaran

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records of the III Additional Labour Court, Chennai in IA. No.27 of 2019 in CP. No.417 of 2013 and quash the order dated 02.11.2019.

For Petitioner : Mr.P.Raghunathan
For M/s.T.S.Gopalan & Co.

For Respondents : Mr.K.M.Ramesh, Sr.C
For M/s.V.Subramani R2
Ms.R.Priyadharshini
for M/s.L.Palanimuthu R1

W.P.No.10239 of 2020:

The authorized Officer,
IFCI Limited,
Rep. By its Assistant General Manager,
Continental Chambers,



WEB COPY

142, Mahatma Gandhi Road,
Post Box No.3318,
Chennai-600 034.

... Petitioner

Vs.

1. The Managing Director,
Sri Seethavenkatesh Mills Ltd.,
Kadirvedu, Puzhal Post,
Chennai-66.

2. P.Jayanthi

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records of the III Additional Labour Court, Chennai in IA. No.28 of 2019 in CP. No.418 of 2013 and quash the order dated 02.11.2019.

For Petitioner : Mr.P.Raghunathan
For M/s.T.S.Gopalan & Co.

For Respondents : Mr.K.M.Ramesh, Sr.C
For M/s.V.Subramani R2
Ms.R.Priyadharshini
for M/s.L.Palanimuthu R1

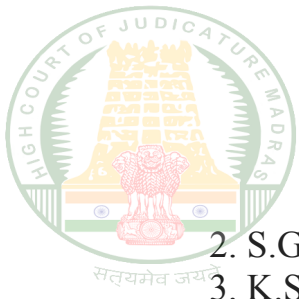
W.P.No.10243 of 2020:

The authorized Officer,
IFCI Limited,
Rep. By its Assistant General Manager,
Continental Chambers,
142, Mahatma Gandhi Road,
Post Box No.3318,
Chennai-600 034.

... Petitioner

Vs.

1. The Managing Director,
Sri Seethavenkatesh Mills Ltd.,
Kadirvedu, Puzhal Post,
Chennai-66.



WEB COPY

2. S.Gangagowri

3. K.Santhi

4. P.Eswari

5. V.Perianayagi

6. D.Nelson

7. M.Krishnamurthy

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, writ of Certiorari calling for the records of the III Additional Labour Court, Chennai in IA. No.26 of 2019 in CP. No.416 of 2013 and quash the order dated 02.11.2019.

For Petitioner : Mr.P.Raghunathan
For M/s.T.S.Gopalan & Co.

For Respondents : Mr.K.M.Ramesh, Sr.C
For M/s.V.Subramani R2 to 7
Ms.R.Priyadharshini
for M/s.L.Palanimuthu R1

COMMON ORDER

These Writ Petitions are filed seeking to quash the order passed by the learned III Additional Labour Court, Chennai in the respective interlocutory application in the respective Computation petitions vide order dated 02.11.2019.

2. It is the case of the petitioner that it is a financial institution and through a consortium with certain other banks and financial institutions granted credit facilities to the first respondent on the security of its factory



WEB COPY

land, building plant and machinery. The first respondent defaulted in repayment of the loan in accordance with the contract and subjected itself to proceeding under the BIFR. Pending the said proceedings, upon coming into force of the SARFAESI Act, the security creditors enforced the security and initially, it is alleged that the creditors resolved to pay the dues relating to the workmen's electricity dues and ESI dues, but, however, did not act on the said resolution. Upon sale of the property and realization of the sale proceeds, the secured creditors including the petitioner appropriated the amounts due and receivable by them and also settled the dues toward the Provident Fund which is a priority due. Thereafter, the workmen filed a claim petition against the first respondent under Section 33 (C) (2) of the Industrial Disputes Act, to compute the monetary due payable to them under settlement. The first respondent, based on the earlier resolution of the secured creditors with respect to clearing of the statutory dues and under the mistaken impression that the amount payable under the settlement is also covered by the same, impleaded the petitioner in the claim petition. Upon impleadment, the petitioner appeared and resisted the said impleadment on the ground that the first respondent company was still in existence and the workmen did not have any charge over the properties and does not a secured debt and there was no employer employee relationship between the



WEB COPY

workmen and the petitioner and therefore, computation of monetary dues under Section 33(C)(2) has sought for, cannot be granted. It was further submitted that the petitioner was not privy to the contract between the first respondent and its workmen and on the aforesaid contentions, the impleadment was resisted. However, without properly appreciating the aforesaid contentions of the petitioner, the impleadment was erroneously allowed which has resulted in the petitioner filing the present writ petition before this Court.

3. Learned counsel appearing for the petitioner would submit that there is no privity of contract between the petitioner and the workmen and the petitioner is either the employee under whom the workmen are alleged to have been employed and in the absence any employer employee relationship between the petitioner and the workmen, no right accrues on the workmen to make any claim against the Bank and equally the first respondent cannot its burden of paying the dues under the settlement to the shoulders of the petitioner. It is the further submission of the learned counsel for the petitioner that if at all, the workmen establishes any pre-existing right, the same could be enforced only against the first respondent and it cannot be transferred to the petitioner.



WEB COPY 4. It is the further submission of the learned counsel that even if there is any excess amount after realizing the dues payable to the secured creditors, the excess amount would only stand deposited to the credit of the Labour Court and in the present case, there is no excess amount which is lying to the credit of the first respondent with the petitioner and therefore, there arises no reason for the petitioner to deposit any amount to the Labour Court much less the monetary computation claimed by the workmen. Therefore, there arises no necessity for impleading the petitioner as a party to the claim made by the workmen as against the first respondent. However, without appreciating aforesaid facts, the impleadment has been allowed which is per se impermissible, illegal, arbitrary and perverse and the same requires to be interfered with.

5. Per contra, learned counsel appearing for the workmen submitted that their claim is only against the first respondent whose security assets have been taken over by the petitioner and upon the disposal of the security assets if there remains any excess amount lying to the credit of the first respondent with the petitioner, direction may be issued to the Court below to settle the workmen with regard to their claim under Section 33(C)(2) of



Act, and to that effect this Court may grant liberty to the workmen to approach the Labour Court to make such a claim.

6. Heard the learned counsel for the petitioners as well as the learned counsel for the respondents and perused the materials available on record.

7. It is not in dispute that the petitioner is a financial institution which has given credits to the first respondent and is a secured creditors under the SARFAESI Act. In view of the fact that the first respondent has approached the BIFR due to its sickness. Proceeding were initiated under the SARFAESI Act for securing the amounts due and payable to the secured creditor by the first respondent. The aforesaid facts are not disputed. Upon realization of the secured assets and realizing the credits due and receivable by the petitioner, the proceedings under SARFAESI Act stood concluded upon payment of the statutory dues due and payable to the authorities including electricity, ESI etc.,

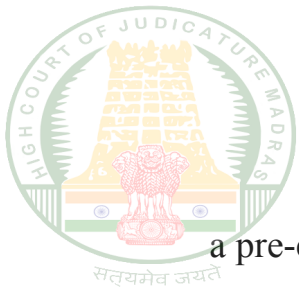
8. After completion of the proceedings under SARFAESI Act with regard to the disposal of the security assets, the workmen have raised a claim under Section 33(C)(2) of the Act, against the first respondent with



WEB COPY

regard to settlement and have claimed certain monetary amounts that are due and receivable by the workmen from the first respondent, who is their employer.

9. There is no doubt that a computation petition is permissible against the first respondent by its workmen with regard to the pre-existing rights for the workmen to receive dues which could be computed in terms of money. On this basis, the computation petitions have been filed by the workmen against the first respondent. However, in the said computation petitions under Section 33(C)(2), the first respondent has sought to implead the petitioner, which had been on the basis of some resolution which had been passed by the secured creditors with regard to clearance of statutory dues from and out of the security assets held by them. The aforesaid facts are not in dispute. It is borne in mind that the petitioner is a financial institution and that there is no element of employer-employee relationship between the petitioner and the workmen. Any settlement arrived at between the first respondent and its workmen, is a claim which is not covered as a secured asset and if at all the workmen make such claim, the claim could be made only against the first respondent and it cannot be made against the secured creditor. The petition under Section 33(C)(2) of Act, is filed only to enforce



WEB COPY

a pre-existing right to which a workmen is entitled and it could be computed in terms of money. For such computation to be made, during the period when the said claim is sought to be enforced, there should be an element of employer-employee relationship between the workmen and the employer. In the present case, the relationship of the employer-employee is only between the workmen and the first respondent. The petitioner is only a secured creditor insofar as the first respondent is concerned and had been holding the security assets which is only for the purpose of realizing the dues which is payable by the first respondent to the petitioner and any due which is not a secured credit, the petitioner is not bound to honor the said amount from the realization of the security assets. After realization of the security assets, if any amount in excess of the credits, is available with the petitioner, the petitioner is bound to deposit the same to the credit of the respective petition before the Labour Court.

10. It is the specific stand of the petitioner that upon realization of the dues payable by the first respondent, there is no amount in excess lying with the petitioner which could be deposited before the Labour Court. Further, the pre-existing right of the workman is only against the first respondent and it cannot be enforced against the petitioner, as the claim is neither a



WEB COPY

secured credit nor there is an element of employer-employee relationship between the petitioner and the workman. Though the workman claims that the excess amount lying with the petitioner may be directed to be deposited with the labour Court so as to realise the compensation payable to the workman under Section 33(C)(2) of the Act. However, neither the workman nor the first respondent have placed any materials to substantiate that amount in excess of the secured credit which has been realized by the petitioner is lying with the petition which could be deposited with the labour Court so as to honor the claims of the workman. In the absence of any specific materials to substantiate the same, the plea of the workman for a direction to the petitioner to deposit the excess amount to credit of the computation petition does not arise.

11. Further, as already held, there being no element of employer-employee relationship between the petitioner and the workman and the due under the settlement, not being a secured credit. There arises no necessity for the petitioner to be impleaded as a party respondent in the computation petition. However, all these material facts have been lost sight of by the labour Court and the labour Court has erroneously impleaded the petitioner as a party respondent which is grossly perverse and erroneous and the same



deserves to be interfered with.

WEB COPY

12. For the reasons aforesaid, the impugned order passed by the Labour Court deserves to be interfered with and accordingly, the writ petitions are allowed. However, liberty is granted to the first respondent and also the other private respondents/workman to file proof before the Labour Court to substantiate any excess amount lying with the petitioner. On realization of the security assets and if such materials is filed before the Labour Court, the Labour Court shall adjudicate the same and pass appropriate order on the said materials. Consequently connected miscellaneous petitions are closed. No costs.

14.02.2025

rli

To

III Additional Labour Court, Chennai



WEB COPY





WEB COPY



M.DHANDAPANI,J.

Rli

**WP Nos. 10033, 10037, 10040, 10142,
10145, 10146, 10237, 10239
and 10243 of 2020**

14.02.2025