



W.P.(MD) No.9554 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.9554 of 2019
and
W.M.P.(MD) No.7521 of 2019

Madurai District Spinning and
Weaving Labour HMS Union
rep.by its Secretary C.Sundaram
15, Mangammal Salai
Tirunagar Post
Madurai-6

... Petitioner

-VS-

1.State of Tamil Nadu
rep.by its Secretary to Government
Department of Labour and Employment
Fort St.George
Chennai-9

2.The Commissioner of Labour
Department of Labour and Employment
Teynampet
Anna Salai
Chennai



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3.The Deputy Commissioner of Labour
Office of Deputy Commissioner of Labour
No.84, 1st Street, Nehruji Nagar
Govindapuram
Dindigul-624 001

4.The Assistant Commissioner of Labour
Office of the Deputy Commissioner of Labour
No.84, 1st Street, Nehruji Nagar
Govindapuram
Dindigul-624 001

5.The State Bank of India
Stressed Assets Management Branch
rep.by its Assistant General Manager
1112, Raja Plaza, Avinashi Road
Coimbatore-641 037

6.Sri Vakira Kaliyamman Spinning
Mills Pvt. Ltd.,
rep.by its Managing Director
Silukuvarpatti
Nilakottai Taluk
Dindigul District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 4 to consider the petitioner's representation dated 22.11.2017 and 09.12.2017 and thereby not to allow the fifth respondent to alienate its properties and remove the machineries from the fifth respondent mill.



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For Petitioner : Mr.T.K.Gopalan
for Mr.S.Vellaichamy

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1 to R4
Mr.V.P.Rajan for R5
No appearance for R6
Mr.N.Shanmugaselvam for proposed R7

ORDER

This writ petition has been filed by the petitioner – Union seeking a writ of mandamus directing the respondents 1 to 4 to consider the representations, dated 22.11.2017 and 09.12.2017, stated to have been submitted by the petitioner – Union, requesting them not to allow the fifth respondent to alienate the properties and remove the machineries from the sixth respondent – Mill.

2. The basis for the petitioner – Union to make such a claim is that the sixth respondent – Mill owes dues to the tune of more than rupees three crores to the workmen, who are the members of the petitioner – Union and without clearing the said dues, the fifth respondent has taken steps to sell away the sixth respondent – Mill by conducting an auction in terms of the



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provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

3. By now, admittedly, the sixth respondent – Mill was already sold in favour of the proposed seventh respondent, namely, M/s.S.D.M.Cotton Spin (India) Private Limited, Silukkuvarpatti, Dindigul District, as early as on 25.10.2021. Thus, the consequential relief sought by the petitioner – Union has now become infructuous.

4. Under those circumstances, the petitioner has filed an application to implead the auction purchaser, namely, M/s.S.D.M.Cotton Spin (India) Private Limited, Silukkuvarpatti, Dindigul District, as seventh respondent in the main writ petition, by filing W.M.P.(MD) No.12830 of 2022.

5. The proposed seventh respondent filed a counter affidavit in the impleading application *viz.*, W.M.P.(MD) No.12830 of 2022 contending that they are not liable for the dues payable by the sixth respondent – Mill prior to the purchase of the said Mill by them and therefore, they are neither necessary nor a proper party to the writ petition.



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6. Learned counsel appearing for the proposed seventh respondent placed reliance on the decision of the Full Bench of this Court in the case of ***The Assistant Commissioner (CT) vs. The Indian Overseas Bank (FB)***, reported in **2016 (6) CTC 769**, by contending that in the light of Section 31-B of the Recovery of Debts and Bankruptcy Act, 1993, no liability can be fastened on the auction purchaser of whatsoever nature.

7. However, in spite of the fact that the sixth respondent – Mill was already sold in favour of the proposed seventh respondent, the petitioner – Union has not taken any steps to amend the prayer in this writ petition and the prayer of this writ petition still remains as seeking a direction to the respondents 1 to 4 to consider the representations dated 22.11.2017 and 09.12.2017 stated to have been submitted by them.

8. During the course of hearing, learned counsel for the petitioner – Union submitted that both the representations said to have been submitted by the petitioner – Union are required to be considered by the second respondent. Further, he also submitted that the proposed seventh respondent was already put on notice by the third respondent in connection with the



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claim made by the petitioner – Union herein and the proposed seventh respondent also appeared before the third respondent and the said proceedings are still pending awaiting disposal of the present writ petition.

9. Considering the fact that the relief sought in this writ petition is only a mandamus directing the respondents 1 to 4 to consider the representations dated 22.11.2017 and 09.12.2017 stated to have been submitted by the petitioner – Union, this Court does not see any reason to examine the matter on merits or to keep the matter pending any further.

10. In the light of the above, this writ petition is disposed of directing the respondents 2 & 3 to consider the representations dated 22.11.2017 and 09.12.2017, stated to have been submitted by the petitioner – Union, and pass appropriate orders thereon by duly putting all the necessary parties, who are likely to be affected by such an order, on notice, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this order. In case if the petitioner – Union is of the view that the proposed seventh respondent herein is a necessary party, it is always open to them to submit appropriate representation to the respondents 2 & 3 to that effect and in case if any such representation is submitted by the



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petitioner – Union, the respondents 2 & 3 shall take a decision on the same in accordance with law and proceed with the matter accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Secretary to Government,
Department of Labour and Employment,
State of Tamil Nadu,
Fort St.George, Chennai-9.
- 2.The Commissioner of Labour,
Department of Labour and Employment,
Teynampet,
Anna Salai, Chennai.
- 3.The Deputy Commissioner of Labour,
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MUMMINENI SUDHEER KUMAR, J.

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