

WP(MD) No.6119 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON
28.11.2024

PRONOUNCED ON
28.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.6119 of 2014 &
WMP.No.23515 of 2023

Madurai Coats Retired Workers
Munnetra Nala Sangam,
through its President S.Ramaraj (Died)
Parthiban
N.262A Harveypatty,
Thirupparankundram,
Madurai – 625 005.

... Petitioner

Petitioner substituted vide Court order dated 05.06.2023 in WMP(MD).No. 10805 of 2023 in W.P.(MD).No.6119 of 2014

vs.

- 1.The Government of Tamil Nadu,
Rep., by its Secretary,
Housing Department,
St., George Fort, Chennai.
- 2.The Deputy Registrar (Housing)
Madurai Division,
K.K.Nagar, Madurai – 20.
- 3.Madurai Mills Cooperative
Housing Society through its Liquidator,
Sa. Tha. Mangalam,
Madurai -20.



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4.A-2581 Madurai Coats Public Servants,
Cooperative Housing Society,
Rep., by its Secretary,
No.168, Thirumalai Colony, P.P.Chavadi,
Madurai – 10.

5.Madurai Coats Private Limited,
through its President Madurai Coats Office,
New Jail Road, Madurai.

6.Paramasivanaidu Muthuvelraj,
Education Trust,
through its founder and
Managing Trustee Muthuvel Raj,
Block No.5, Mugappair East, Chennai.

7.Bangaru Ammal Educational Trust,
Rep., by P.Markkandathas,
29/E, 3rd Street, Thangam Colony,
Anna Nagar West, Chennai – 600 040.

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents 1 and 2 to take appropriate steps to recover the land from the respondents 5 to 7 for the welfare of workers of Madura Coats Mills and the petitioner's Association and pass such further order.

For Petitioner : Mr.T.Selvan

For Respondents : Mr.R.Suresh Kumar AGP for RR1 & 3

Mr.S.Ramesh for R5

Mr.C.Deepak for R6

Mr.H.Lakshmi Shankar for R7



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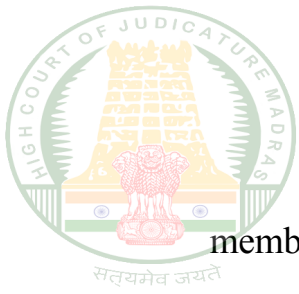
ORDER

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The Writ Petition had been filed seeking for a direction to direct the respondents 1 & 2 to take appropriate steps to recover the lands from the respondents 5 to 7 for the welfare of the workers of the fifth respondent for the benefit of the members of the petitioner Sangam.

2. Heard Mr.T.Selvan, learned counsel appearing for the petitioner, Mr.R.Suresh Kumar learned Additional Government Pleader appearing for the respondents 1 & 2, Mr.S.Ramesh, learned counsel appearing for the fifth respondent, Mr.C.Deepak, learned counsel appearing for the sixth respondent and Mr.H.Lakshmi Shankar, learned counsel appearing for the seventh respondent.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a registered society working for the welfare of the retired workers of the fifth respondent. He would submit that the third respondent society was formed by the workers of the fifth respondent and the object was to acquire the lands and convert into house sites for the benefit of the



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members, who are the workers of the fifth respondent. An extent of 77 acres of lands at Harveypatty was acquired of which certain portions of the land remained unsold. In the year 1975, the third respondent society was liquidated and the liquidator in the cadre of the Sub-Registrar of Cooperative was appointed. Out of 76 acres acquired by the third respondent society, an extent of 19.24 acres was left unsold and the fifth respondent agreed to purchase the said land for the benefit of the workers and continued the welfare programme of providing house sites to its workers, no steps were taken by the fifth respondent to purchase the said lands. On 25.06.1997, the third respondent was directed to be amalgamated with the fourth respondent and all the assets of the third respondent society with its liabilities were transferred to the fourth respondent which empowered the fourth respondent to sell the lands. The fifth respondent had filed a Suit in O.S.No.386 of 1997, for a specific performance at the strength of the letter given by the then Liquidator. The fifth respondent had suppressed the order of amalgamation in the said Suit and by judgment and decree dated 20.10.2024, the Suit for Specific performance was decreed. He would allege that the Suit itself was conducted in collusion between the parties and an appeal had been preferred by the fourth respondent herein



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which came to be dismissed, against which a Second Appeal before this

WEB COURT was also filed.

4. In the interregnum, an Execution Petition was ordered and the sale deed was registered on 04.05.2007. The third respondent herein had also filed a Civil Revision Petition in CRP.No.1298 of 2007, challenging the order of the Executing Court, directing execution of the sale deed. He would submit that the fifth respondent had sold the property in favour of the sixth and seventh respondents by two separate sale deeds for a valuable sale consideration, which would only show that the fifth respondent did not have any intention to purchase the property for the benefit of its workers, which itself would make the decree of specific performance null and void. In spite of the repeated representations to the first and second respondents, no action had been taken out by the respondent. Hence, they have approached this Court by way of this instant Writ Petition.

5. Countering his arguments, Mr.R.Suresh Kumar, learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 would submit that the petitioner is a Society which has been created only in the



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year 2013 and had filed the present Writ Petition after much water had
flowed under the bridge. He would submit that the third respondent had also
challenged the sale deed which was also dismissed by this Court on
16.10.2015 along with the Second Appeal filed by the fourth respondent
challenging the decree of specific performance. In such an event, the claim
of the petitioner at this length of time cannot be entertained by this Court in
a Writ Petition under Article 226 of the Constitution.

6.Mr.S.Ramesh, learned counsel appearing on behalf of the fifth
respondent would contend that by a detailed judgment of this Court in
Second Appeal in S.A.Nos.932 of 2007 & 647 of 2014, filed by the fourth
respondent and also the Civil Revision Petition filed against the direction to
execute the sale deed, this Court has found that there is no error in issuance
of the specific performance decree, had dismissed the Second Appeals as
also the Civil Revision Petitions by its order dated 16.10.2015. He would
further submit that the petitioner was formed only in the year 2013 by the
retired employees who had no contractual obligation with the fifth
respondent to seek to enforce a dead wood against the fifth respondent. He
would submit that the petitioner had found only with an intention to unjustly



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enrich themselves by trying to revive an issue that had been settled in an appropriate civil proceedings. Therefore, he would seek dismissal of the Writ Petition.

7. The learned counsel appearing for the seventh respondent would reiterate the submissions made by the learned counsel for the fifth respondent with regard to the conclusion of the disputes by an appropriate Civil Court and would further submit that this Court in the Writ Petition cannot sit on an appeal against the judgment and decree made by this Court in S.A.Nos.932 of 2007 & 647 of 2014. He would further submit that third and fourth respondents Society had not been amalgamated as claimed by the petitioner and the fourth respondent Society which also claimed on the same lines that the petitioner seeks that the property had been vested with the fourth respondent had lost its claim before the Civil Court leading up to the judgment and decree in Second Appeal, which had not been further appealed by it. He would further submit that pursuant to the purchase by the seventh respondent as early as in the year 2007, an educational institution was put up in the said place and had been functioning for the past 12 years.



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8. The learned counsel for the sixth respondent would also adopt the submissions made by the learned counsels for the fifth and seventh respondents and contend that the sixth respondent is also a purchaser.

9. I have considered the rival submissions made by the learned counsels appearing on behalf of their respective parties and perused the materials available on record.

10. Admittedly, the properties were originally owned by the third respondent Society which was sought to be amalgamated with the fourth respondent Society. The fifth respondent had filed a Suit for a specific performance in respect of the very same property for which the Writ Petition had been filed. The suit had been contested by the third and fourth respondents and was decreed by the appropriate Civil Court. The fourth respondent had filed an Appeal Suit against the decree of specific performance and the fifth respondent had also independently filed an Appeal Suit against the disallowed portion. The first Appellate Court had dismissed the Appeal Suit filed by the fourth respondent and had allowed the Appeal Suit filed by the fifth respondent. Against the judgment and



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decree in the appeal suits, the fourth respondent had filed two independent Second Appeals in the S.A.Nos.937 of 2007 & 647 of 2014. In the interregnum, the Executing Court also executed the sale deed in favour of the fifth respondent as early as in the year 2007 and the same was also challenged by the third respondent Society in CRP.No.1298 of 2007, by a well considered common judgment and decree dated 16.10.2015, this Court had dismissed the Second Appeal and also this Civil Revision Petition. No further proceedings have been neither initiated by the third and fourth respondents against the same and had become final between the parties.

11. Even though, the Writ Petitioner had moved this Writ Petition in the year 2014 i.e., during the pendency of the Second Appeals and the Civil Revision Petition, which are also within the knowledge of the petitioner as the averments in the affidavit also discloses the pendency of the C.R.P as also the Second Appeal, the petitioner had not taken any steps to get itself impleaded in the said proceedings. The petitioner had also not challenged the order independently of the Executing Court made in the year 2007 and the consequential sale deed executed by the fifth respondent in favour of respondents 6 & 7. The claim for the property made by the fifth respondent



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before a Civil Court have been concluded in its favour before this Court in
dismissal of the Second Appeal filed by the fourth respondent.

12. In such an event, this Court sitting under Article 226 of the Constitution cannot now interdict with the well considered judgment and decree made by this Court as early as in the year 2015. Further the petitioner Society seems to have only formed in the year 2013, much after the disposal of the Suit, the Appeal Suit, execution of the sale deed by the Court in favour of the fifth respondent and consequential sale deed executed by the fifth respondent in favour of the respondents 6 & 7.

13. For the aforesaid reasons, I do not find any necessity for this Court to invoke its power under Article 226 of the Constitution to issue direction to the first and second respondents as prayed for. If this Court ventures to issue such a direction, it would amount to sitting on an appeal over a well considered judgment and decree made by this Court on the appellate side which this Court refrains to do.



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14. In fine, this Writ Petition fails and is accordingly dismissed.

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Miscellaneous Petition is closed.

28.01.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To

1. The Government of Tamil Nadu,
Rep., by its Secretary,
Housing Department,
St., George Fort, Chennai.
2. The Deputy Registrar (Housing)
Madurai Division,
K.K.Nagar, Madurai – 20.



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K.KUMARESH BABU.,J.

Gba

A Pre-delivery order made in
W.P.(MD)No.6119 of 2014 &
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