

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.09.2015

CORAM

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN

W.P.NO.14536 OF 2015

T.Gunasekaran

..Petitioner

/vs/

1.The State of Tamil Nadu
Rep.by its Secretary to Government,
Co-operative Food and Consumer Production Department,
Secretariat, Fort St.George,
Chennai 600 009.

2.The Managing Director/Additional Registrar,
Tamil Nadu State Co-operative Primary Agricultural & Rural
Development Bank Limited,
Chennai 600 004.

3.The Deputy Registrar,
Co-operative Primary Agricultural & Rural Development Bank Ltd.,
Gobichettipalayam Circle,
Gobichettipalayam,
Erode District.

4.The President,
Sathyamangalam Co-operative Primary Agricultural & Rural
Development Bank Ltd.,
Sathyamangalam 638 407,
Erode District.

..Respondents

Writ Petition filed under Article 226 of Constitution of India
praying for issuance of Writ of Mandamus directing the respondents to
consider the representation submitted by the petitioner dated
25.04.2015 for settlement of NFS Non Farm Sector loan in Loan A/c
No.36/NFS under one Time Loan Settlement Scheme 2014, issued in
G.O.Ms.No.139, Co-operative Food and Consumer (CC2)Department, dated
17.12.2014 within a time frame to be fixed by this Court.

For Petitioner :Mr.R.N.Amarnath

For Respondents :Mr.D.Venkatachalam for R1 to R3
Mr.G.Sankaran for R4

ORDER

The petitioner has come forward with this petition before this Court seeking for Writ of Mandamus directing the respondents to consider the petitioner's representation, dated 25.04.2015 for settlement of NFS Non Form Sector loan in Loan A/c No.36/NFS under One Time Loan Settlement Scheme 2014, issued in G.O.Ms.No.139, Co-operative Food and Consumer (CC2) Department, dated 17.12.2014.

2.The petitioner's father late A.D.Thimmana Gounder and his brother Chinnaraj had availed loan to the tune of Rs.9 lakhs from the fourth respondent Co-operative Bank by mortgaging their property. The deed of mortgage in respect of the property in question was executed on 09.10.1997 by the petitioner's father and his brother and their children jointly. Thereafter, Thimmana Gounder died on 30.04.2005 and his brother Chinnaraj also died on 26.12.2004. The loan sanctioned by the fourth respondent Bank is Non Farm Sector (NFS) Loan and the loan amount was disbursed in three installments. The loan amount was repaid to the extent of Rs.2,10,000/-.Due to serious setback in the business, the loan amount could not be repaid. Therefore, the fourth respondent Bank had issued notice demanding a sum of Rs.44,03,331/- on 05.05.2010. Thereafter, when the State Government issued G.O(2D) No.12, Co-operative Food and Consumer Protection Department, dated 28.02.2009, the fourth respondent Bank has demanded Rs.23,06,136/- under interest waiver scheme. Since distraint proceedings were initiated by issuing a sale notice, dated 03.09.2010 to bring the property to a public auction, the petitioner and others filed an appeal before the Special Tribunal for Co-operative Cases/Principal District Court, Erode in C.M.A.(CS)No.62 of 2010. The Tribunal, by order dated 29.10.2012, had directed the petitioner to pay the principal amount with interest at the rate of 6%. As per the order of the Tribunal, the principal amount of Rs.8,99,058/- had to be repaid along with interest of Rs.18,46,532/-. Therefore, the petitioner gave a representation on 27.01.2014 to the respondents seeking permission to pay the amount as per the order of the Tribunal. Since no response came from the respondents, the petitioner filed a writ petition in W.P.No.23825 of 2014 seeking a direction to the respondents to receive the balance amount of Rs.18,47,532/- and the same is pending.

3. In the meanwhile, the State Government issued orders in G.O.Ms.No.139, Co-operative Food and Consumer (CC2) Department dated 17.12.2014 introducing One Time Settlement (OTS) Scheme 2014 in respect of loan amount, which become Non Performing Asset (NPA) as on 31.12.2014.

4. According to the said Government Order, the petitioner is entitled to avail the benefit of the said scheme and therefore, the petitioner gave a representation on 25.04.2015 informing his willingness for settlement under G.O.Ms.No.139, Co-operative Food and Consumer (CC2) Department, dated 17.12.2014 and since no order

has been passed, the petitioner now stands before this Court with this writ petition.

5. Heard Mr.R.N.Amarnath, learned counsel appearing for the petitioner and Mr.D.Venkatachalam, learned counsel appearing for respondents 1 to 3 and Mr.G.Sankaran, learned counsel appearing for the fourth respondent.

6. The facts are not disputed. Though the fourth respondent Bank stated that G.O.Ms.No.139, Co-operative Food and Consumer (CC2) Department, dated 17.12.2014 has been passed by the Government, it has not been communicated to the fourth respondent Bank for implementation. It is evident from the communication dated 29.07.2015 issued by the second respondent, which refers to G.O.Ms.No.139, Co-operative Food and Consumer (CC2) Department dated 17.12.2014 and the said Government Order is being implemented and communicated to the fourth respondent.

7. In those circumstances, it is appropriate to direct the fourth respondent to consider the request of the petitioner dated 25.04.2015 for settlement of loan outstanding due to the Bank under One Time Settlement Scheme 2014 introduced under G.O.Ms.No.139, Co-operative Food and Consumer (CC2) Department, dated 17.12.2014 and grant the relief positively, within a period of eight weeks from the date of receipt of a copy of this order.

8. With the above directions, the writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Secretary to Government,
The State of Tamil Nadu
Co-operative Food and Consumer Production Department,
Secretariat, Fort St.George,
Chennai 600 009.

2.The Managing Director/Additional Registrar,
Tamil Nadu State Co-operative Primary Agricultural & Rural
Development Bank Limited,
Chennai 600 004.

3.The Deputy Registrar,
Co-operative Primary Agricultural & Rural Development Bank Ltd.,
Gobichettipalayam Circle,
Gobichettipalayam,
Erode District.

4.The President,
Sathyamangalam Co-operative Primary Agricultural & Rural
Development Bank Ltd.,
Sathyamangalam 638 407,Erode District.

+lcc to M/s.G.Sankaran, Advocate Sr.48335
+lcc to The Government pleader Sr.48131

W.P.No.14536 of 2015

mp[co]
srg 5.10.2015



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