

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.16887 of 2015

S.Venkatachalam

... Petitioner

Vs

1. The Registrar
O/o. Co-operative Society Registrar Office
E.V.R. Periyar Road Kilpauk Chennai-10.
2. The Deputy Registrar / Arbitrator
Krishnagiri Region, Krishnagiri District.
3. D.D.9 Uthankarai Agricultural
Producers Co-Operative Marketing Society
Rep. by its Secretary, Uthankarai
Krishnagiri District

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of mandamus directing the 1st respondent to consider petitioner representation dated 30.09.2014 for One Time Settlement to clear the due amount to the society and pass appropriate orders.

For Petitioner : Mr.R.Ramesh

For Respondents : Mr.D.Venkatachalam,
Government Advocate(1)

सत्यमेव जयते

O R D E R

Heard the learned counsel for the petitioner and Mr.D.Venkatachalam, learned Government Advocate, who takes notice for the 1st respondent and with their consent, the main writ petition itself is taken up for hearing.

2. This writ petition has been filed by S.Venkatachalam, seeking a Writ of mandamus directing the Registrar, Office of the Co-

operative Society Registrar Office, Chennai, the 1st respondent herein to consider and pass appropriate orders on his representation dated 30.09.2014 for One Time Settlement to clear the due amount to the society.

3. Mr.R.Ramesh, learned counsel for the petitioner would submit that the petitioner, being the proprietor of Krithika Cotton Corporation, has been selling cotton to various Cotton Mills. One of the Mill owner namely R.Eswaramoorthy, used the petitioner's Company name to procure cotton with the knowledge of the 2nd respondent on credit basis, however, he had neglected to pay a portion of the sale consideration towards the purchase of cotton on credit basis during the period 26.07.1996 to 06.01.1999 to the tune of Rs.9,70,249/-. According to him, only due to the default on the part of the said Eswaramoorthy, the 2nd respondent had initiated proceedings against the petitioner under Section 90 of the Tamil Nadu Co-operative Societies Act and subsequently an award was passed on 22.03.2001 for a sum of Rs.16,85,052/- including interest of Rs.7,14,773/-. Further, according to the learned counsel, the petitioner had never mortgaged or given security by executing any document in respect of the properties of his father and mother. Being so, the debt incurred by him is not binding on his mother or his ancestral properties. Whiles, the 3rd respondent, on 09.11.2014, published auction notice in Tamil Newspaper "Thinathanthi" Salem Edition on 12.12.2014 to recover a sum of Rs.34,04,927/- towards the award amount.

4. Learned counsel for the petitioner further submitted that the petitioner has also paid till date a sum of Rs.10 lakhs out of Rs.34 lakhs. He further submits that the petitioner is prepared to clear the outstanding arrears, for which, he submitted a representation, which has not been disposed of till date by the 1st respondent and hence the 3rd respondent cannot be permitted to proceed further.

5. At this point of time, Mr.D.Venkatachalam, learned Government Pleader, appearing for the 1st respondent drawing the attention of this Court to the Circular No.31/2009 dated 14.10.2009 issued by the Registrar of Co-operative Societies, Kilpauk, Chennai, submitted that the proposals for waiver of interest and other charges are to be sent to Registrar of Co-operative Societies with general body resolution passed by the 3rd respondent. However, as far as the case in hand is concerned, the petitioner till date has not approached the Co-operative Society, viz., the 3rd respondent herein and he has directly approached the 1st respondent.

6. In reply to the same, the learned counsel for the petitioner submitted that the petitioner even though addressed the

representation to the 1st respondent, has also marked a copy to the 3rd respondent.

7. If that being the case of the petitioner, a direction is given to the petitioner to once again send a fresh representation to the 3rd respondent along with the calculation and on receipt of the same, it is for the 3rd respondent to consider the representation of the petitioner along with the calculation to be given by the petitioner, for clearing the debt with low interest rate, in the light of the said circular referred supra and pass appropriate orders on merits and in accordance with law, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.

The writ petition is disposed of in the above terms. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar
O/o. Co-operative Society Registrar Office
E.V.R. Periyar Road Kilpauk Chennai-10.
2. The Deputy Registrar / Arbitrator
Krishnagiri Region, Krishnagiri District.
3. The Secretary,
D.D.9 Uthankarai Agricultural
Producers Co-Operative Marketing Society
Uthankarai
Krishnagiri District

+1cc to the Government Pleader, S.R.No.29260

SCD(CO)
CA(13/07/2015)

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