

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.29304 of 2015

K.Sundaramurthi

...Petitioner

Vs

1. Joint Registrar of Co-operative Society,
Vellore Zone,
No.1, Officer's Lane,
Vellore - 632 001.

2. The Management
C2454 Vellakuttai Primary Agriculture
Co-operative Credit Society Ltd.,
Vellakuttai Post,
Vaniyampadi Taluk,
Vellore District.

...Respondents

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of certiorarified mandamus to call for the concerned records from the first respondent, quash the order of the first respondent dated 23.07.2015 bearing Na.Ka.No.5301/2015 A2 and consequently direct the first respondent to take the Revision Petition dated 15.07.2015 on record and pass orders on the revision petition on its merits and in accordance with law.

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.R.Balaramesh,
Addl. Govt. Pleader

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ORDER

By consent, the writ petition itself is taken up for final disposal.

2.The petitioner, at the time of his superannuation on 31.07.2008, was the Secretary of the second respondent society and he was issued with a charge memo and challenging the same, he filed a writ petition in W.P.No.6675 of 2009 and it was disposed of on 19.08.2009 holding that the petitioner deemed to have retired from service on 31.07.2008 with liberty to approach the concerned authority for settlement of his terminal benefits. Thereafter, the second respondent settled the provident fund, but, however, his gratuity was not paid and according to the petitioner, the total gratuity payable is Rs.1,71,748/- and out of the same, only a sum of Rs.22,000/- was paid and the balance amount of Rs.1,49,748/- is yet to be disbursed. The petitioner would further state that the second respondent has issued an order dated 08.06.2011 stating that due to his act, the second respondent has suffered a loss of Rs.2,60,073/- and asked the petitioner to remit the said amount within a period of fifteen days from the date of receipt of the order. The petitioner has challenged the legality of the said order by filing W.P.No.15834 of 2011 and it was dismissed as withdrawn on 01.07.2011. Thereafter, he filed a revision before the first respondent, who dismissed the revision vide order dated 23.04.2013, wherein the first respondent held that the petitioner should pay a sum of Rs.2,60,073/-, being the amount of loss caused by him.

3.Challenging the legality of the said order, the petitioner filed W.P.No.3615 of 2014 and the said writ petition was allowed on 13.02.2014 and the second respondent was directed to pay the said amount and accordingly, paid the balance sum of Rs.1,18,040.33 towards gratuity. The grievance expressed by the petitioner is that there is still some amount due and payable towards gratuity and accordingly, given a calculation as follows:

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Gratuity payable as on 31.07.2008	..	Rs.2,07,157/-
Interest at 10% from 01.08.2008 to 05.08.2010	..	Rs. 41,658/- =====
Total	..	Rs. 2,48,815/- =====
Amount paid on 05.08.2010	..	Rs. 22,000/- -----
Total balance	..	Rs. 2,26,815/-
Interest at 10% from 06.08.2010 to 30.04.2014	..	Rs. 69,244/- -----
Total	..	Rs. 2,96,059/- -----
Amount paid on 02.05.2014	..	Rs. 1,18,040/- -----
Total balance	..	Rs. 1,78,019/- -----

4.The petitioner, in this regard, has also given a legal notice and the second respondent has sent a reply stating that whatever amount due and payable to him has been settled.

5.The petitioner, challenging the legality of the said order, filed a revision dated 15.07.2015 before the first respondent under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 and it was rejected on the ground that the petitioner has to invoke Section 90 of the Act and challenging the legality of the said order, the petitioner came forward to file this writ petition.

6.Mr.Balan Haridas, learned counsel appearing for the petitioner would submit that without even putting the petitioner on notice, the first respondent has straight away rejected the revision petition and would submit that the revision remedy is the only remedy available to the petitioner to get redressal of his grievance and prays for setting aside the order with a further direction to the first respondent to rehear the matter once again and give the disposal in accordance with law.

7.Per contra, Mr.R.Balaramesh, learned Additional Government Pleader has drawn the attention of this Court to Section 90 of the Tamil Nadu Co-operative Societies Act, 1983 and would submit that the petitioner has to raise a dispute under Section 90 of the Act and

therefore, the revision jurisdiction is not correct and proper remedy and prays for dismissal of the writ petition.

8.This Court has carefully considered the rival submissions and perused the materials placed before it.

9.A perusal of the materials would disclose, every time, the petitioner has to approach this Court and get redressal of his grievance.

10.It is also relevant to extract Section 153 (4) of the Act. As per the said provision, the jurisdictional officer has vast and wide power to call for a record of any officer subordinate to him or of the Board or any officer of a registered Society or of the competent authority constituted under sub-section (3) of Section 75 of the said Act.....

11.As rightly pointed out by the learned counsel for the petitioner, before rejecting the revision petition as not maintainable, the first respondent ought to have given an opportunity to convince him as to the maintainability of the revision and it was also not done.

12.In the result, the writ petition is allowed and the order of the first respondent dated 23.07.2015 is set aside. The first respondent is directed to take the revision petition on file, if the papers are otherwise in order and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mmi

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To

1. The Joint Registrar of Co-operative Society,
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Vellore - 632 001.
2. The Management
C2454 Vellakuttai Primary Agriculture
Co-operative Credit Society Ltd.,
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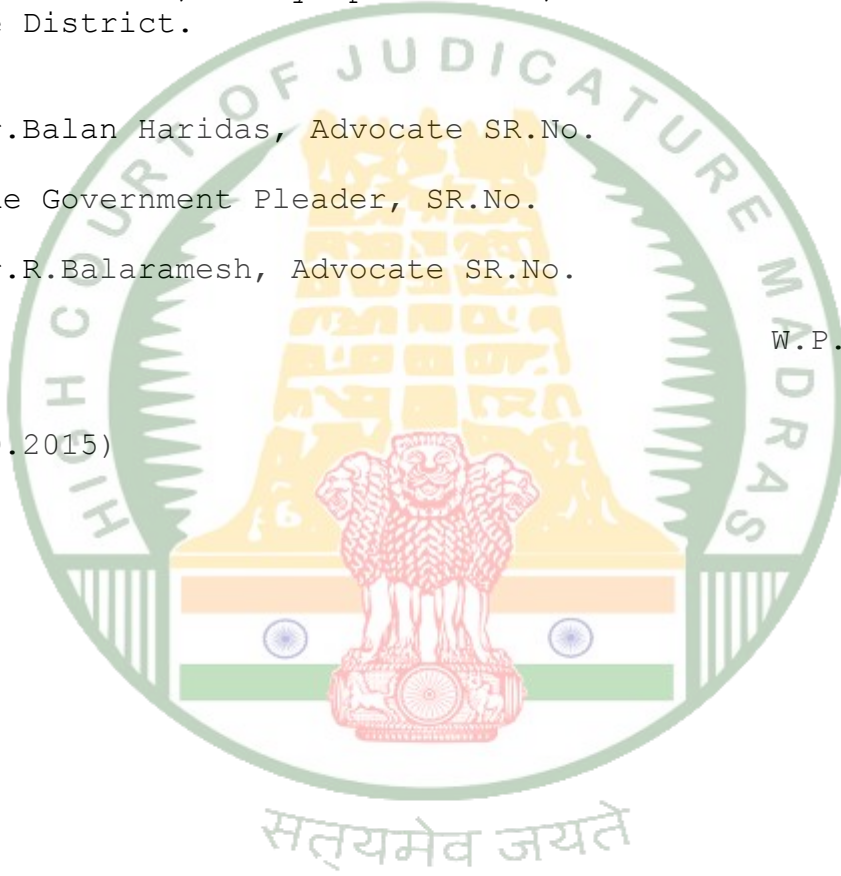
1 CC to Mr.Balan Haridas, Advocate SR.No.

1 CC to the Government Pleader, SR.No.

1 CC to Mr.R.Balaramesh, Advocate SR.No.

W.P.No.29304 of 2015

SKV (CO)
PSI (23.09.2015)



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