

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.15976 of 2008

And

M.P.Nos.2 of 2008, 2 of 2010 and 1 of 2012

M.M.Aasai thambi

... Petitioner

Vs.

1.The Government of Tamilnadu by Secretary to Government,
Co-operative
Food & Consumer protection Department
Chennai - 600 009.

2.The Joint Registrar of
Co-operative Societies,
Vellore Region,
Vellore.

3.Madapalli, Farmers service Co-operative Society,
Represented by the Special Officer,
Madavallam Post
Thirupathur Taluk
Vellore District.

... Respondents

Prayer: Petition filed under section 226 of the
Constitution of India to issue a Writ of Certiorarified
Mandamus by calling for the entire records in respect of
the order passed by the third respondent dated 09.11.2007
and quash the same, consequently direct the respondent to
waive the loan and return the jewels which was pledged by
the petitioner in respect of loan No.10114 (agriculture).

For Petitioner

: Mr.D.Rajagopal

For Respondents

: Ms.T.P.Savitha for R1 and R2
Government Advocate
Mr.P.Nethaji for R3

O R D E R

The petitioner has filed this writ petition praying for issuance of Certiorari and Mandamus to quash the order passed by the third respondent Society and to direct the respondent to waive the loan and return the petitioner's jewels which were offered as security for a loan made for agricultural purpose.

2. The learned counsel appearing for the petitioner has drawn the attention of this Court to the application dated 31.03.2006 duly certified by the Secretary of the Society with regard to the loan which was availed by the petitioner showing the details of the jewels which was pledged to secure the loan transaction. In the said application/registration form, the loan number allotted to the petitioner is 10114 Agri and the rate of interest is 9%.

3. The learned counsel appearing for the petitioner further submitted that the loan was for agricultural purpose and that is why the rate of interest is 9% and the petitioner clearly informed the third respondent Society that he is a small Agriculturist carrying on operations as a lessee and therefore, the question of production of certain documents called for does not arise. Further, the learned counsel submitted that the loan obtained by pledging the jewels for agricultural purpose is entitled for the benefit of waiver in terms of G.O.Ms.No.96, Co-operative, Food and Consumer Protection (CC1) Department, dated 05.07.2006. The petitioner submitted several representations and ultimately the respondent sent a letter to the petitioner which is impugned in this writ petition.

4. The only stand taken in the impugned letter of the third respondent is that the loan obtained by the petitioner by pledging his jewels is not for agricultural purpose and it is only a jewel loan.

5. In the counter, the third respondent states that the petitioner should have produced formal card to establish that he belongs to the locality where the co-operative Bank is situated. The Chitta issued by the Revenue Authorities pertaining to the agricultural lands and the Patta has to be insured under the Insurance Scheme. It is submitted that the petitioner has not produced any documents such as documents issued by the Revenue Authorities to substantiate his claim that the jewel loan was for agricultural purpose.

6. In the counter affidavit, the second respondent has only stated as to the eligibility conditions in terms of G.O.Ms.No.70, dated 31.05.2006 and G.O.Ms.No.96, dated

05.07.2006 and other issues have not been dealt with. Since it is within the rhyme of the third respondent, the third respondent has not explained as to why the petitioner's application was registered as Agri loan with interest at 9% and if it was a normal jewel loan transaction, the rate of interest will definitely not be 9%.

7.It is the submission of the petitioner that the petitioner has not issued Patta, Adangal issued by the Revenue Authority at the time of applying loan and since the petitioner is cultivating the land on lease basis from one Kiliyammal, he cannot produce any document of title. This aspect of the matter has not been denied in the counter affidavit of the third respondent except to state that the Chitta and Adangal has not been produced.

8.In the light of the above factual position, this Court is of the view that the second respondent should examine the matter independently by calling for the necessary records from the third respondent Society and to see as to whether the petitioner is entitled to the benefit of the Government Order. The learned counsel appearing for the second respondent produced a copy of the proceedings from the file of the third respondent which also shows the application number of the petitioner has explained loan No.10114 Agri. In such circumstances, this Court is of the view that the petitioner's case cannot be foreclosed and has to be considered by the second respondent independently.

9.In the light of the above, the petitioner is directed to file a revision petition before the second respondent under Section 153 of the Tamil Nadu Co-operative Societies Act within a period of fifteen days from the date of receipt of a copy of this order. On filing of such revision petition, the second respondent shall call for the records from the third respondent so as to examine the same and also examine the documents which the petitioner may produce before the second respondent relevant to the date when the loan was borrowed. Since the petitioner stated that he was a lease holder, he can produce some acceptable evidence to show that the land is only a lease property. After considering all these aspects and after affording an opportunity of personal hearing, the second respondent shall pass orders on merits and in accordance with law within a period of eight weeks thereafter.

10.With the above observations, the writ petition is disposed of. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1.The Secretary to Government,
Co-operative
Food & Consumer protection Department
Chennai - 600 009.

2.The Joint Registrar of
Co-operative Societies,
Vellore Region,
Vellore.

1 cc t M/s.D. Rajagopal, Advocate, Sr. 69373
1 cc to Government Pleader, Sr. 68823

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