



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2015

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

WRIT PETITION (MD) No.4270 of 2015
and
M.P.(MD)Nos.1 & 2 of 2015

K.SUBRAMANIYAN

... PETITIONER

-vs-

1. THE REGISTRAR
CO-OPERATIVE SOCIETIES,
NO.170 N.E.NATARAJAN MALIGAI,
POONAMALLEE HIGH ROAD,
KILPAUK, OPPOSITE TO EGA CINEMA HALL
CHENNAI-10.
 2. THE JOINT REGISTRAR
CO-OPERATIVE SOCIETIES,
OFFICE OF THE JOINT REGISTRAR,
COLLECTOR OFFICE CAMPUS,
KARUR DISTRICT, KARUR.
 3. THE DEPUTY REGISTRAR
CO-OPERATIVE SOCIETIES,
OFFICE OF THE DEPUTY REGISTRAR,
MILL GATE, THANTHONRI MALAI,
KARUR.
 4. THE PRESIDENT
R.656, RAJAPURAM,
PRIMARY AGRICULTURAL CO-OPERATIVE CREDIT SOCIETY,
RAJAPURAM, ARAVAKURICHI TALUK,
KARUR DISTRICT.
- ... RESPONDENTS

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ in the nature of Certiorari, calling for the records connected in the impugned order in Na.Ka.No.1026/2010 Sa.Ba. dated 23.09.2010 and the demand notice dated 5.12.2014 passed by the Deputy Registrar Co-Operative Societies Karur (3rd respondent) and quash the same as illegal.

For Petitioner : Mr.S.Malaikani

<https://hcservices.ecourts.gov.in/hcservices> For P1 to R3

For R4

: Mr.S.Kumar, Addl. Govt. Pleader

: Mr.Aayiram K.Selvakumar, Govt. Advocate

**ORDER**

The petitioner has come forward with this writ petition, seeking for issuance of a Writ in the nature of Certiorari, calling for the records connected in the impugned order in Na.Ka.No.1026/2010 Sa.Ba. dated 23.09.2010 and the demand notice dated 5.12.2014 passed by the Deputy Registrar Co-Operative Societies Karur / 3rd respondent and quash the same as illegal.

2. From the records, it is found that this Court passed an order on 30.03.2015, which reads as follows:

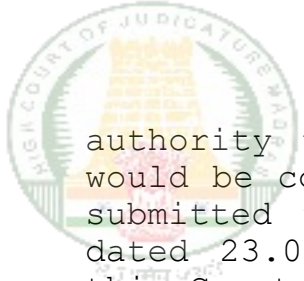
"Learned counsel for the petitioner submits that he has got instruction that the petitioner is willing to pay a sum of Rs.4,00,000/- (Rupees Four Lakhs only) during the month of April end and to pay the balance Rs.3,73,000/- before the end of May, 2015 for Principal amount without prejudice to the contention in respect of the interest amount. The petitioner is directed to file undertaknig affidavit. Post on 06.04.15."

3. Today, an affidavit has been filed by the petitioner, wherein in Paragraph No.13, it is stated as under:

"13. I state that thereafter I have filed Writ Petition before this Honorable court in W.P.No.4270 of 2015 and the same was listed before this Honorable Court on 26.03.2015 and 30.03.2015. On 30.03.2015, I undertook to pay Rs.4 lakhs by the end of April and Rs.3,73,059/- by the end of May in respect of the principal amount without prejudice to my claim of waiving interest, since there is a chance of reinstating me in service on payment of principal amount. As I undertook before this Honorable Court, I am ready to pay the money to that effect I am filing this affidavit."

4. Learned counsel for the petitioner submits that the petitioner is willing to pay the amount in two installments as stated supra and that he will make necessary application to the respondents for waiver of interest and also for reinstatment in service.

5. *Per contra*, learned Government Advocate appearing for R4 submits that surcharge proceedings have already been initiated under Section 87 of the Tamil Nadu Co-Operative Societies Act, 1983, in which the petitioner was also directed to pay a sum of Rs.7,73,059.60 inclusive of 15% interest, vide order dated 23.09.2010, passed by the Deputy Registrar, Co-operative Societies, Karur. He further submits that at no point of time, the respondents have given up the claim for interest and that since the petitioner has approached this Court after a lapse of five years, this writ petition has to be dismissed in *limine* on the ground of delay and laches. He also submits that in the event of any application being made by the petitioner to the department, which is the ultimate



authority to decide on the issue of waiver of interest, the same would be considered on merits in accordance with law. It is further submitted that the petitioner, without even challenging the order dated 23.09.2010 before the Tribunal, has straightaway approached this Court for the aforesaid relief.

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6. I have heard the learned counsel on either side and perused the material documents available on record.

7. Taking into consideration the submissions made on either side, without going into the merits of the case, this Writ Petition is disposed of with the following directions:

i) The petitioner is at first directed to pay the entire principal amount as undertaken by him in Paragraph No.13 of the undertaking affidavit and thereafter, submit a representation to the department for waiver of interest and also reinstatement in service, within a period of two weeks from the date of receipt of a copy of this order;

ii) On receipt of any such representation, the respondents shall either consider the request of the petitioner or pass suitable orders on merits and in accordance with law within a period of two weeks thereafter.

iii) In case the petitioner fails to deposit the amount as agreed upon within the stipulated time, the department is entitled to proceed to recover the amount interms of the order dated 23.09.2010 together with the demand notice dated 05.12.2014 and there is no need for the respondents to lift the order of attachment till the entire amount is recovered from the petitioner.

8. However, it is once again reiterated that any request for waiver of interest and also reinstatement in service will be only after the receipt of the entire amount by the respondents. No costs. Consequently, connected miscellaneous petition are closed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub-Assistant Registrar

To:

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CO-OPERATIVE SOCIETIES,
NO.170 N.E.NATARAJAN MALIGAI,
POONAMALLEE HIGH ROAD,
KILPAUK, OPPOSITE TO EGA CINEMA HALL

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R.656, RAJAPURAM,
PRIMARY AGRICULTURAL CO-OPERATIVE CREDIT SOCIETY,
RAJAPURAM, ARAVAKURICHI TALUK,
KARUR DISTRICT.

+1CC TO MR.R.ALAGUMANI, ADVOCATE, IN SR. NO.17291.

+1CC TO MR.AAYIRAM K.SELVAKUMAR, ADVOCATE, IN SR. NO.17208.

+1CC TO SPECIAL GOVERNMENT PLEADER, IN SR NO.17339.

WRIT PETITION (MD) No.4270 of 2015
06.04.2015

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