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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition (MD)Nos.7914, 7943, 7990, 7588, 7640, 7648, 7816, 7641 and 7658 of 2014

V. RAMAIAH ... PETITIONER IN WP(MD). 7914/ 2014
K. GOVINDAN, ... PETITIONER IN WP(MD). 7943/ 2014
S.ANBUGANAPATHY ... PETITIONER IN WP(MD). 7990/ 2014
R.RAMUPILLAI, ... PETITIONER IN WP(MD). 7588/ 2014
P. LALITHA, ... PETITIONER IN WP(MD). 7640/ 2014
RM.KARTHIKEYAN, ... PETITIONER IN WP(MD). 7648/ 2014
L.SAMPATH, ... PETITIONER IN WP(MD). 7816/ 2014
S. VENKATESAN ... PETITIONER IN WP(MD). 7641/ 2014
V. VIJAYALAKSHMI ... PETITIONER IN WP(MD). 7658/ 2014

Vs.

THE CHAIRPERSON,
AGRICULTURAL DEBT WAIVER AND
DEBT RELIEF SCHEME 2008
ACTING BY THE SECRETARY,
DEPARTMENT OF FINANCIAL SERVICE,
MINISTRY OF FINANCE,
NORTH BLOCK, NEW DELHI. ..1ST RESPONDENT IN ALL WP'S

STATE BANK OF INDIA,
THROUGH ITS BRANCH MANAGER,
ARANTHANGI BRANCH,
PUDUKOTTAI DISTRICT. ...2ND RESPONDENT IN WP(MD)NOS.7914, 7943, 7990, 7588, 7648, 7816, 7641/2014

STATE BANK OF INDIA,
THROUGH ITS BRANCH MANAGER,
KRISHNAJIPATTINAM BRANCH,
PUDUKKOTTAI DISTRICT. ...2ND RESPONDENT IN WP(MD)NOS.7640 & 7658/2014

Prayer in WP(MD)Nos.7914, 7943, 7990, 7588, 7648, 7816 & 7641 of 2014 :

Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the second respondent bank to issue certificate of debt waiver with statement of accounts to the petitioner for tractor loan and return the petitioner's documents of the petitioner's land.

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Prayer in WP(MD)Nos.7640 & 7658 of 2014 :

Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the second respondent bank to issue certificate of debt waiver with statement of accounts to the petitioner for tractor loan and trailer loan and return the petitioner's documents of the petitioner's land.

For Petitioner in all WPs : Ms.Elil Selvi

For 1st Respondent in
WP(MD)Nos.7914, 7943, 7640,
7816, 7641/2014 : Mr.G.R.Swaminathan
Assist. Solicitor General

For 1st Respondent in
WP.7990/2014 : Mr.V.R.Veludoss

For 1st Respondent in
WP.7588/2014 : Mr.A.John Xavier

For 1st Respondent in
WP.7648 & 7658/14 : Mr.S.Arunkumar

For 2nd Respondent in all WPs
: Mr.Ananth C.Rajesh

O R D E R

All these writ petitions have been filed for a writ of Mandamus directing the second respondent bank to issue a certificate of debt waiver with statement of accounts for tractor loan and return the petitioners documents.

2.According to the petitioners, all of them are small farmers. They owned land less than 5 acres and though their family own more than five acres, individually, they only own less than two acres for availing tractor loan. Since they are small farmers, they are entitled to get debt waiver under Debt Waiver Scheme but unfortunately that has not been taken into consideration. Therefore, they have come forward with the present writ petitions for the aforementioned relief.

3.The second respondent has filed counter affidavit wherein it has been stated that the writ petitions are not maintainable since the petitioners have not accepted the bank's offer for debt relief scheme. Even as per the offer, they have to deposit 75% of the eligible debt amount. Since it was not done, they have estopped from claiming debt waiver scheme belatedly in the year 2013. It is further stated that since the petitioner and his

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family members had mortgaged 6.07 acres of land as per chitta patta for availing agricultural term loan, the petitioners are not eligible to get waiver under the scheme.

4.Heard the learned counsel for the respective parties and perused the materials available on record.

5.Clauses 3.5, 3.6 and 3.7 of the said scheme provide the following definitions:

> *"3.5.Marginal Farmer means a farmer cultivating (as owner or tenant or share cropper) agricultural land upto 1 hectare (2.5 acres)*
>
> *3.6.Small Farmer means a farmer cultivating (as owner or tenant or share cropper) agricultural land of more than 1 hectare and upto 2 hectares (5 acres)*
>
> *3.7.Other Farmer means a farmer cultivating (as owner or tenant or share cropper) agricultural land of more than 2 hectares (more than 5 acres)".*

6.The question that arises for consideration is whether they are entitled under the scheme for waiver or under One Time Settlement. According to the second respondent, the petitioners possessed and cultivated 6.07 acres of agricultural land and therefore, they have classified only as other farmer under the scheme. Therefore, they are entitled to a relief under one time settlement. However, earlier, the bank has given option for them to avail one time settlement which they have not availed it. Therefore, the relief sought for in the present writ petitions cannot be granted at this stage. According to the petitioners, the petitioners though not individually owned more than five acres, as a family they owned more than five acres and most of them have mortgaged the land in question to the bank for the purpose of getting agricultural loan. Accordingly, the writ petitions are dismissed. It is always open to them to approach the bank for any other concession including one time settlement even at this stage, if they are eligible under law. No costs.

Sd/-
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

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To
1.THE CHAIRPERSON, AGRICULTURAL DEBT WAIVER AND
DEBT RELIEF SCHEME 2008
ACTING BY THE SECRETARY,
DEPARTMENT OF FINANCIAL SERVICE,
MINISTRY OF FINANCE, NORTH BLOCK, NEW DELHI.

2. THE BRANCH MANAGER, STATE BANK OF INDIA,
ARANTHANGI BRANCH, PUDUKOTTAI DISTRICT.

3. THE BRANCH MANAGER, STATE BANK OF INDIA,
KRISHNAJIPATTINAM BRANCH, PUDUKKOTTAI DISTRICT.

+2CCS TO M/S.K.ELIL SELVI, ADVOCATE IN SR : 7376
+1CC TO MR.G.R.SWAMINATHAN, ADVOCATE IN SR : 7620
+1CC TO MR.S.ARUN KUMAR, ADVOCATE IN SR : 7062
+9CCS TO MR.ANANTH C.RAJESH, ADVOCATE IN SR : 7346 TO 7348,
7380 TO 7382, 7298 TO 7300

Sms
SR : 20.03.2015 : 4p/17c

Writ Petition (MD)Nos.7914, 7943, 7990, 7588,
7640, 7648, 7816, 7641 and 7658 of 2014
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