

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 26.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.15358 to 15366 of 2016

B.Thayar	... Petitioner in WP.15358/2016
S.Ramasamy	... Petitioner in WP.15359/2016
R.Susilamani	... Petitioner in WP.15360/2016
R.Yogapriya	... Petitioner in WP.15361/2016
S.Rajendran	... Petitioner in WP.15362/2016
R.Jothimani	... Petitioner in WP.15363/2016
C.Srinivasan	... Petitioner in WP.15364/2016
J.Lakshmi	... Petitioner in WP.15365/2016
S.Subathra	... Petitioner in WP.15366/2016

Vs.

1. The Deputy Registrar of
Co-operative Societies
Dharapuram Circle
Vasantha Road,
Dharapuram-638 656, Tiruppur District.
2. The Joint Registrar of
Co-operative Societies
Co-operatives Marketing Committee Godown
Tiruppur Circle, Tiruppur-641 604.
3. K-797 Kongalnagaram
Primary Agaricultural Co-op Credit Society Ltd
rep by its President, Kongalnagaram Post
Udumalpet Taluk.

... Respondents in all WPs

Prayer in W.P.No.15358 of 2016 : This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, to direct the respondents to consider the representation of the Petitioner dated 03.02.2016 and repay the Petitioner a sum of Rs.1,60,000/- deposited vide Fixed Deposits in F.D. No. 4406 F.D.No. 4991 with the 3rd Respondent together with accrued interest with effect from the date of deposit and till the date of realization of fixed deposit.

Prayer in W.P.No.15359 of 2016 : This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to consider the

representation of the Petitioner dated 03.02.2016 and repay the Petitioner a sum of Rs.2,50,000/- deposited vide Fixed Deposits in F.D. No. 4752 and F.D.No. 4870 with the 3rd Respondent together with accrued interest at the rate of 9.25% per annum with effect from the date of deposit and till the date of realization of fixed deposit.

Prayer in W.P.No.15360 of 2016 : This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to consider the representation of the Petitioner dated 03.02.2016 and repay the Petitioner a sum of Rs.2,50,000/- deposited vide Fixed Deposits in F.D. No. 5009 and F.D.No. 4979 with the 3rd Respondent together with accrued interest at the rate of 8.75% and 9.25% per annum respectively with effect from the date of deposit and till the date of realization of fixed deposit.

Prayer in W.P.No.15361 of 2016 : This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to consider the representation of the Petitioner dated 03.02.2016 and repay the Petitioner a sum of Rs.2,65,000/- deposited vide Fixed Deposits in F.D. No. 4789 and F.D.No. 5008 with the 3rd Respondent together with accrued interest at the rate of 9.25% and 8.75% per annum respectively with effect from the date of deposit and till the date of realization of fixed deposit.

Prayer in W.P.No.15362 of 2016 : This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to consider the representation of the Petitioner dated 03.02.2016 and repay the Petitioner a sum of Rs.4,00,000/- deposited vide Fixed Deposits in F.D. No. 4912 and F.D.No. 4866 F.D.No.4742 with the 3rd Respondent together with accrued interest at the rate of 9.25% per annum with effect from the date of deposit and till the date of realization of fixed deposit.

Prayer in W.P.No.15363 of 2016 : This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to consider the representation of the Petitioner dated 03.02.2016 and repay the Petitioner a sum of Rs.5,30,000/- deposited vide Fixed Deposits in F.D. No. 4914 F.D.No. 4913 F.D.No.4766 with the 3rd Respondent together with accrued interest at the rate of 9.25% per annum with effect from the date of deposit and till the date of realization of fixed deposit.

Prayer in W.P.No.15364 of 2016 : This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to consider the

representation of the Petitioner dated 03.02.2016 and repay the Petitioner a sum of Rs.1,50,000/- deposited vide Fixed Deposits in F.D. No. 4934 with the 3rd Respondent together with accrued interest at the rate of 9.25% per annum with effect from the date of deposit and till the date of realization of fixed deposit.

Prayer in W.P.No.15365 of 2016 : This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to consider the representation of the Petitioner dated 03.02.2016 and repay the Petitioner a sum of Rs.2,00,000/- deposited vide Fixed Deposits in F.D. No. 4902 and F.D.No. 4920 with the 3rd Respondent together with accrued interest at the rate of 9.25% per annum with effect from the date of deposit and till the date of realization of fixed deposit.

Prayer in W.P.No.15366 of 2016 : This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to consider the representation of the Petitioner dated 03.02.2016 and repay the Petitioner a sum of Rs.3,71,500/- deposited vide Fixed Deposits in F.D. No. 4891 and F.D.No. 4935 with the 3rd Respondent together with accrued interest at the rate of 9.25% per annum with effect from the date of deposit and till the date of realization of fixed deposit.

For Petitioners in all WPs : Mr.M.Sivavarthanan

For Respondent in all WPs : Mr.L.P.Shanmugasundaram
Special Government Pleader

C O M M O N O R D E R

Heard Mr.M.Sivavarthanan, learned counsel appearing for the petitioners and Mr.L.P.Shanmugasundaram, learned Special Government Pleader, accepting notice for the respondents and with the consent of the learned counsel on either side, the Writ Petitions are taken up for final disposal.

2.In these Writ Petitions, the petitioners have prayed for issuance of writ of mandamus to direct the respondents 1 & 2 to ensure that the fixed deposits made by the petitioners in the third respondent Society should be returned as the deposits have already matured.

3.There can be no quarrel that the depositor is entitled for return of money on the expiry of the period for which the deposit has been made. However, in the instant case, the third respondent is involved in a financial scam with other Societies and this Court in a batch of cases dealt with the

claims made by the Societies, wherein the Society had challenged the order passed by the Deputy Registrar of Co-operative Societies, keeping the amount payable to the Society in a 'suspense account'. This Court by a common order dated 22.03.2016 in W.P.Nos.36973, 4248 of 2015 and 9664 of 2016, has dismissed the Writ Petitions, with a direction to the Registrar of Co-operative Society to nominate an Officer in the cadre of Additional Registrar to conduct a through probe into the matter. The relevant portions of the aforesaid order reads as follows:

"2. The present proceedings has revealed a scam committed by the Co-operative societies in the manner in which jewel loans were availed. It is not very clear at this stage of the matter as regards the modus operandi adopted, but the statement of the learned Additional Advocate General is that the jewels pledged with the fourth respondent society were taken from the society without the knowledge of those persons, who have pledged the jewels, probably replaced with fake jewels and those jewels have been deposited with the seven societies who are the petitioners in these writ petitions in the names of fictitious persons or relatives or the directors of the fourth respondent society and loans were obtained. The estimated financial loss assessed as on date exceeds Rs.24 crores. The matter is under investigation by the second respondent, who is the Deputy Registrar of Co-operative Societies, Dharapuram and the present writ petitions have been filed, impugning the order passed by the second respondent dated 08.01.2015, in and by which various amounts which are due to the petitioners societies from the Central Co-operative bank have been retained in a suspense account pending investigation into the allegations said to have been committed by the fourth respondent Co-operative society.

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7. The learned Additional Advocate General and submitted that the Deputy Registrar is proceeding with the enquiry as a delegate of the Registrar and the powers have been delegated to the Deputy Registrar so as to ensure speedy disposal of the enquiry and to decentralize the matters. Undoubtedly, delegation is required to ensure effective

functioning of any administration. But, however, this Court is of the view that in the matter of this nature where the respondents estimate the alleged loss at more than Rs.24 crores, the Registrar should take up the matter by himself or should delegate it to an officer of equivalent rank or in the cadre of Additional Registrar and such officer could be named so that the officer is designated exclusively with that work and he shall conclude the enquiry in expedition fully concentrating on the same. The above direction was infact put across the Court and the learned Additional Advocate General on instructions submitted that the respondents do not resist any such direction being issued and would abide by the directions issued by this Court.

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9. In the light of the above and the stand taken by the petitioners before this Court agreeing to Co-operate in the enquiry there are no grounds made out by the petitioners to challenge the impugned proceedings are held to be perfectly valid and proper with an intention to preserve status quo and to aid the ultimate orders to be passed or action to be taken after the enquiry is completed.

10. Accordingly, the writ petitions fails and are dismissed. There will be a direction to the first respondent to nominate an officer by name in the cadre of Additional Registrar to be the designated officer to conduct the enquiry into the matter, who shall proceed expeditiously in the matter and also examine as to whether there is any criminal intent in the entire transaction and in his opinion if there is a criminal intent, he may recommend for criminal investigation to be conducted parallelly by the competent Police authority. The first respondent shall nominate such an officer to conduct the said enquiry within a period of two weeks from the date of receipt of a copy of this order, with a direction to the second respondent to transmit all the files to the said officer, who shall be designated by the first respondent. The petitioners herein and the respondents 3 and 4 shall co-operate in the expeditious disposal of the enquiry proceedings and produce all

records and documents as summoned by the enquiry officer. The enquiry officer in the cadre of Additional Registrar, to be designated, preferably, who has not served in the Coimbatore region, shall endeavour to complete the entire enquiry and pass final order preferably within a period of three months. In case of difficulty in adhering to this time schedule, it is open to the first respondent to approach this Court for necessary further directions. However, the nomination of the officer shall be done within time stipulated supra.

11. In the light of the above directions issued, necessarily the proceedings which are subject matter of challenge in W.P.No.9964 of 2016 has also to be transferred to the Officer who is to be nominated by the first respondent for appropriate action. It is needless to state that whatever amounts are mentioned therein shall be continued to be retained in the suspense account till the enquiry is completed by the designated officer."

4. In the light of the above direction, the depositors like the petitioners can file their Claim Petitions before the concerned Additional Registrar, who is to be nominated for conducting enquiry and those Claim Petitions can also be verified for their genuinity and the same shall be considered during the course of enquiry.

The Writ Petitions are disposed of with the above observations. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpa

To

1. The Deputy Registrar of
Co-operative Societies
Dharapuram Circle
Vasantha Road,
Dharapuram-638 656,
Tirunpur District.

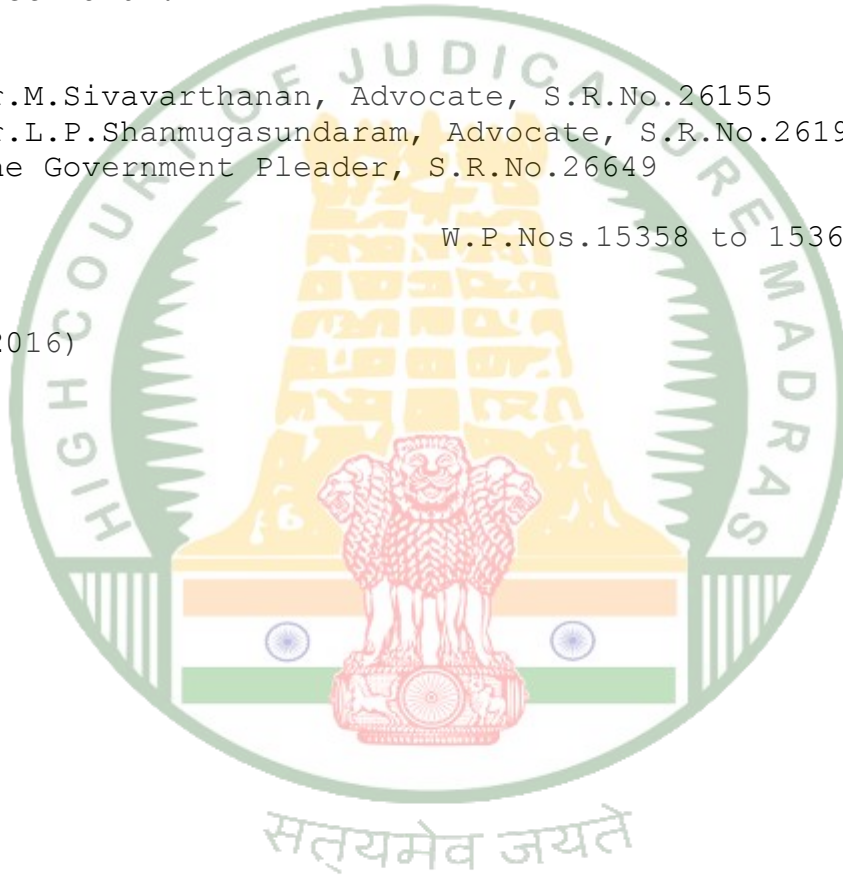
2. The Joint Registrar of
Co-operative Societies
Co-operatives Marketing Committee Godown
Tiruppur Circle,
Tiruppur-641 604.

3. The President
K-797 Kongalnagaram
Primary Agaricultural Co-op Credit Society Ltd
Kongalnagaram Post
Udumalpet Taluk.

+1cc to Mr.M.Sivavarthan, Advocate, S.R.No.26155
+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.26192
+1cc to the Government Pleader, S.R.No.26649

W.P.Nos.15358 to 15366 of 2016

RSY(CO)
CA(18/05/2016)



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