

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.06.2016

Pronounced on : 30.06.2016

CORAM

The Hon'ble Mr. Justice M.V. MURALIDARAN

W.P.No.23205 of 2014

and

MP.No.2 of 2014

R. Padmanabhan

... Petitioner

Vs.

1. The Deputy Registrar of Co-Operative Societies (Credit),
(Full Additional Charge) (Credit),
Chennai - 600 108.
2. The Commandant,
TSP IInd Battalion,
Avadi, Chennai - 600 054.
3. The Personal Assistant to Commandant (Account),
TSP IInd Battalion,
Avadi, Chennai - 600 054.
4. The Assistant General Manager,
Tamil Nadu State Apex Co-operative Bank Ltd.,
No.233, N.S.C. Bose Road,
Chennai - 600 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order bearing Na.Ka.No.B5/6175/2014, dated 18.08.2014 of the 2nd Respondent herein viz., The Commandant, TSP IInd Battalion, Avadi, Chennai - 600 054, partly quash the same in para No.3 and consequently direct the 2nd Respondent herein viz., The Commandant, TSP IInd Battalion, Avadi, Chennai - 600 054, by modifying the impugned order to the extent of paying the balance loan amount due in equal monthly installment of Rs.2,500/- per month from September 2014.

For Petitioner : Mr.K.S.Govindaprasad

For Respondents:Mr.P.Anbarasan (for R4)

R1 to R3 - No Appearance

O R D E R

The petitioner has filed the above writ petition challenging the order passed by the respondents 1 and 2 and for partly quashing the same in paragraph-3 and consequently direct the 2nd Respondent herein viz., The Commandant, TSP II Battalion, Avadi, Chennai - 600 054, by modifying the impugned order to the extent of paying the balance loan amount due in equal monthly installment of Rs.2,500/- per month from September 2014 onwards.

2.Heard Mr.K.S.Govindaprasad, learned counsel appearing for the petitioner and Mr.P.Anbarasan, learned counsel appearing for the fourth respondent.

3. The case of the petitioner is that he is working as Junior Assistant in the Office of the Commandant, TSP II Battalion, Avadi, Chennai-54 from 1980. He had obtained agricultural loan for Rs.1,00,000/- from the fourth respondent bank with M.No.6269, SL A/c. No.1513 and the said loan was obtained by the petitioner after obtaining sanction from the second respondent herein.

4.The petitioner further states that from the date of sanction of loan i.e. from 10.07.2002 to 05.08.2005, he has repaid the monthly installment amount of Rs.2,406/-. But thereafter, he has not paid the amount on the ground that he was sent for deputation to New Delhi in the year 2010. He has also further stated that from 2005 onwards he could not paid the installment amount and he is ready and willing to pay the alleged sum of Rs.1,83,767/- which has been demanded by the fourth respondent herein pursuant to the Garnishee order under Section 143 of TNCS Act, 1983 bearing Rc.No.2241/2014E.P/SF4, dated 29.05.2014. The present impugned order has been passed by the first respondent dated 29.05.2014 in which Garnishee order was issued by the second respondent, directing the employer to attach the award amount of Rs.1,83,767/- in a monthly basis. The petitioner further submits that he is the only breadwinner of his family and from the service benefits only he should perform his daughter's marriage and as per the impugned order, if his service benefits are affected, he will put to irreparable loss and his family is put to heavy hardship. Challenging that, the present writ petition has been filed.

5.The learned counsel appearing for the fourth respondent

has filed counter affidavit along with typed set. The respondent states that the loan was granted to the petitioner on 10.07.2002, but he has paid the said amount only upto 2005. Thereafter, he has not paid any amount in respect of the loan. Therefore, he approached the Cooperative Sub Registrar (Arbitration and Execution) in the office of the Deputy Registrar, Cooperative Societies, Chennai - 600 108. Notice was properly issued to the petitioner, but he has not appeared. Hence, the Sub Registrar (Arbitration and Execution) has passed an award directing the petitioner to pay a sum of Rs.79,781/- with interest thereon at 18.5% per annum from the date of realization. But, thereafter no amount was paid by the petitioner. The fourth respondent has sent a letter dated 26.09.2007 to the Inspector General of Police (Operations), No.17, Boat Club Road, R.A.Puram, Chennai-600 028 stating that the petitioner is due to pay a total outstanding amount of Rs.86,472/- at the rate of 18.5% as on 26.09.2007 with the inclusion of the award amount of Rs.79,781/-, requested the fourth respondent to take further action by recording the said award in the Service Register, but no action was taken. Thereafter, on 29.05.2014, another letter was sent to the second respondent, based on that on 18.08.2014 the present impugned order has been passed by the second respondent. Therefore, as per the above award, the total amount comes to Rs.1,83,767/- and the petitioner ought to have paid the said amount. Hence, the present impugned orders were passed for affecting the service benefits.

6. Heard the arguments made by the learned counsel appearing for the petitioner and the learned counsel appearing for the fourth respondent.

7. Though the case of the petitioner is that challenging the order of the respondents, without filing statutory appeal before the Court of Chief Judge, Small Causes Court, Chennai. But in this writ petition, he sought for the prayer to quash the orders passed by the respondents by modifying the impugned order to the extent of paying the balance loan amount due in equal monthly installment of Rs.2,500/- per month from September 2014.

8. On the other hand, the fourth respondent opposed the writ prayer and the petitioner is going to retired on 30.06.2016. Therefore, the fourth respondent cannot be rest assured that the installment paid regularly. The learned counsel appearing for the fourth respondent also states that to avoid recovery of the loan dues from the petitioner's retirement benefits, he filed this writ petition and also stated that as per Section 143 of Tamil Nadu Cooperative Societies Act, 1983, which is specifically provides to the fourth respondent that the loan dues to the Cooperative Societies can be recovered from the petitioner's retirement benefits. Accordingly, the first

respondent has directed to attachment of the salary of the petitioner.

9.Considering the nature of the case, I am inclined to pass the following orders:

(a) The impugned orders are set aside and directing the petitioner to pay a sum of Rs.50,000/- to the fourth respondent within a period of one week from the date of receipt of a copy of this order and thereafter to pay another sum of Rs.50,000/- within a period of four weeks and further directed that the petitioner should pay the remaining amount at the rate of Rs.2,500/- per month to the fourth respondent without any default.

(b) The respondents 2 and 3 are directed to release the service benefits to the petitioner on payment of the first installment as indicated above.

10.Accordingly, the writ petition is allowed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

vs

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Deputy Registrar of Co-Operative Societies (Credit),
(Full Additional Charge) (Credit),
Chennai - 600 108.

2.The Commandant, TSP IInd Battalion,
Avadi, Chennai - 600 054.

3.The Personal Assistant to Commandant (Account),
TSP IInd Battalion, Avadi, Chennai - 600 054.

4.The Assistant General Manager,
Tamil Nadu State Apex Co-operative Bank Ltd.,
No.233, N.S.C. Bose Road, Chennai - 600 001.

+ 1 cc to Mr.P.Anbarasan, Advocate Sr 36722

+ 1 cc to Mr.S.Govinda Prasad, Advocate SR NO 37349[14/7/16]

KR/13/7/16

W.P.No.23205 of 2014
and



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