

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29..03..2016

C O R A M

The Hon'ble Mr. SANJAY KISHAN KAUL, CHIEF JUSTICE
and

The Hon'ble Mrs. Justice M.M.SUNDRESH

Writ Appeal Nos.1444 to 1456 of 2013
and

W.A.Nos.1846 to 1858 of 2013

W.A.No.1444 of 2013

No.AA.226, Modakuruchi Primary

Agricultural Co-operative Credit Society Ltd.,

represented by its Special Officer,

Modakuruchi - 638 104,

Erode District.

... Appellant/3rd respondent in
WA.1444 to 1456/13
/2nd Respondent
in WA.1846 to 1858/13

Versus

C.Vasudevan

...1st Respondent
in All the WAs.1444/13 &
WA.1846/13

V.R.Subramaniam

...1st Respondent
in All the WA.1445/13 &
WA 1847/13

A.Chellamuthu

...1st Respondent
in All The WA.1446/13 &
WA.1848/13

V.S.Rangasamy

...1st Respondent
in All the WA.1447/13
& WA.1849/13

OM.Kailasam

...1st Respondent
in All the WA.1448/13
& WA.1850/13

A.Periyasamy

...1st Respondent/Petitioner
in All the WA.1449/13
& WA.1851/13

M.Sengottian	...1st Respondent/Petitioner in All the WA.1450/13 & WA.1852/13
M.Subbanna Gounder	...1st Respondent/Petitioner in All the WA.1451/13 & WA.1858/13
R.Perumal @ Murugesan	...1st Respondent/Petitioner in All the WA.1452/13 & WA.1857/13
M.S.Ramasamy	...1st Respondent/Petitioner in All the WA.1453/13 & WA.1856/13
M.Shanmugam	...1st Respondent/Petitioner in All the WA.1454/13 & WA.1855/13
V.Vasudevan	...1st Respondent/Petitioner in All the WA.1455/13 & WA.1854/13
C.Saravanan	...1st Respondent/Petitioner in All the WA.1456/13 & WA.1853/13
2.The State of Tamil Nadu represented by its Secretary to Government Co-operation, Food and Consumer Protection Department Chennai 600 009.	...2nd Respondent in WA.1444 to 1456/13 ...1st Appellant in WA.1846 to 1858/13
3. The Registrar of Co-operative Societies, No.170, E.V.R.Periyar High Road, Kilpauk, Chennai 600 010.	... 3rd Respondents/respondents/ in WA.1444 to 1456/13 ...2nd Appellant in WA.1846 to 1858/13

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Prayer : Writ Appeals filed under Section 15 of the Letters Patent against the order dated 10.07.2012 in Writ Petition Nos.24664, 24665, 24667, 24672, 24674, 24675, 24676, 24677, 24678, 24680, 24681 and 24683 of 2010, on the file of this Court

Prayer in WP.24664,24666,24665,24667,24672,
24674,24675,24676,24677,24678,24680,

24681,24683/10: Writ Petitions filed Under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, Calling for the entire records relating to the impugned orders passed by the 3rd respondent in his proceedings dt.12.7.2010 and quash the same and consequently direct the respondents particularly the 3rd respondent to extend the Loan Waiver Scheme allowed in G.O.(Rt) No.70 Cooperation Food and Consumer Protection Department dt.13.5.2006 to the petitioner in respect of loan obtained from the 3rd respondent society and to issue Loan Clearance Certificate.

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For Appellants : Mr.C.Prakasam in W.A.Nos.1444 to
1456 of 2013

Mr.L.P.Shanmugasundaram
Special Government Pleader
(Co-operative Societies)

in W.A.Nos.1846 to 1858 of 2013

For Respondents : Mr.K.Premkumar for R.1

in W.A.Nos.1444 to 1456 of 2013

Mr.L.P.Shanmughasundaram
Special Government Pleader (Co-operative
societies) for R.2 and R.3

in W.A.Nos.1444 to 1456 of 2013

K.Premkumar for R.1

in W.A.Nos.1846 to 1858 of 2013

Ms.P.Rajalakshmi
Government Advocate for R.2
in W.A.Nos.1846 to 1858 of 2013

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J U D G M E N T

(Judgment of the Court was delivered by the
Honourable The Chief Justice)

A common controversy arises on account of the Government of Tamil Nadu issuing G.O.(Ms).No.70 dated 13.05.2006 qua waiver of agricultural loans for farmers. In terms of the said Government Order, all standing dues availed by farmers from Co-operative Societies were waived with no proceedings to be initiated for recovery of the said loans. The amount waived was to be reimbursed to the Co-operative Societies by the State Government.

2. The eligibility criteria was loan disbursed by the 8 types of Societies and one of them was Primary Agricultural Co-operative Bank, which is the legal status of the Modakuruchi Primary Agricultural Cooperative Credit Society Ltd. The waiver were of both Principal and interest. The various categories of loans for which the scheme to be applied was also enumerated in the said Government Order, but in the course of argument, we found that the English translation was not correct. Suffice to say that the various kinds of loans listed in the Government Order dealt with crop loans, inter-term agricultural loans and agriculture allied loans.

3. It is an accepted position that the format in which the loanees in the present case applied for loan was of an integrated loan, though against the reason for availing of loan, it was stated that the loan was secured by deposit of title document to make "agricultural development". These applications were processed and loans were also granted.

4. We may notice that the mortgage deed also refers to the loan being advanced as an integrated loan. The order on loan disbursement mentions "Purpose of agricultural development".

5. A conspectus of all the aforesaid thus shows that the application has been entertained and dealt with as one for "agricultural development", which as per the defining terms of the Government Order, requires waiver.

6. We may note that in these cases, the Special Officer of the Society considered the cases and rejected them and the said orders were assailed before the learned single Judge, who granted the relief resulting in the present appeals. We may add here that there was some factual variations in the original order with which the loanees are aggrieved and have filed the appeals.

7. We may note that the reasoning permeating the order of the learned Single Judge is, as we noticed above, the loan was for 'agricultural development', which was not a category for waiver. However, on perusal of the original Tamil version, it has been found that the English translation of the Government Order is not correct to the extent that it actually incorporates waiver in case of 'agriculture allied loans'.

8. During the course of arguments, the rejection orders have been pointed out to us which seek to suggest that the loans have been utilized for construction of marriage Halls and houses or setting up of Xerox Centres and computer connected business etc. and as these loans were granted for the purposes other than agriculture, the loanees are not entitled to waiver of the loans as per Government Order. However, it appears that these expressions are used in a general character practically in all orders. The premise of the same that the loan was granted for purposes other than for which waiver is provided, however, does not appear to be correct, since 'agricultural development' was one of the categories of the cases where the loan could be waived. The moot point however remains as to how the loan has actually been utilized in each case, which would vary from case to case.

9. If we may say, the respondents really do not have any quibble over this proposition, but the learned counsel submits that this factual matrix needs to be verified, for which the appropriate remedy would be Section 153 of the Tamil Nadu Co-operative Societies Act, 1983.

10. We are in agreement with the said submission and thus while we would be in principle in agreement with the views adopted by the learned single Judge in view of what we have set out herein above, each case would have to be examined so as to find out whether the loans were actually used for 'agricultural development' or for purposes unconnected with agricultural development viz., purchase of transport vehicles, construction of Marriage Halls, Houses, setting up of Xerox centres and computer connected business etc. It will be for the loanee to establish as to what was the loan utilized for.

11. We thus modify the impugned order to the aforesaid extent and remit the matter to the revisional authority to be decided on merits, waiving the litigation period spent herein and directing the revision petitions confined to the aforesaid to be filed by the individual petitioners within 30 days of the receipt of the present order.

12. Till the revision petitions are decided and for a period of one month thereafter, in case of adverse verdict, no coercive steps would be taken for recovery in this behalf. We permit the

loanees to file any additional documents which are necessary for the purpose proof of utilization of the loan, which in turn can be verified by the respondents.

13. The writ appeals are disposed of in the aforesaid terms, leaving the parties to bear their own costs. Consequently, connected miscellaneous petitions are closed.

s/d-

Assistant Registrar(CSVII)

True Copy

Sub-Assistant Registrar

To

1.The Secretary to Government
Government of Tamilnadu
Co-operation, Food and Consumer Protection Department
Chennai - 600 009.

2. The Registrar of Co-operative Societies,
No.170, E.V.R.Periyar High Road,
Kilpauk, Chennai 600 010.

+1 cc to Mr.K.Premkumar Advocate sr.19557
+1 cc to L.P.Shanmugasundaram Advocate sr.19514
+1 cc to Mr.C.Prakasam Advocate sr.20378
+1 cc to M/s.Government Pleader sr.19780

W.A. Nos.1444 to 1456 of 2013

and

W.A.Nos.1846 to 1858 of 2013

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