

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.11905 to 11907 of 2008

S.1565, Palace Nagar Co-operative

Housing Society,

Cherry Road, Salem-1,

Rep. by its Secretary

Vs

..Petitioner in all WPs

1.The Registrar of Co-operative Societies,

EVR Salai, Kilpauk,

Chennai - 10.

..1st Respondent in all Wps.

2.The Deputy Registrar of Co-operative

Societies,

Salem Circle, Salem.

3.The Sale Officer-cum-Co-operative

Sub Registrar (Crime)

Salem.

4. The Deputy Registrar of Co-Op.Societies,

Attur Circle, Attur.

5. The Sale Officer-cum-Co-Op.Sub Registrar

Attur, Salem and District

..Respondents 2 and 3

in W.P.11907/2008

6.The Registrar of Co-operative

Societies (Housing)

Nandanam, Chennai - 35.

(R4 - suo motu impleaded as per order

dt.27.09.2011 in WP.Nos.11905

to 11907 of 2008)

..4th Respondent in all WPs

7. S.6648 Attur Mulluvadi Primary

Agricultural

Co-operative Credit Society Ltd.,

Rep.by its Special Officer,

Attur Salem.

(impleaded as per order dated 22.01.2016 in

M.P.No.1 of 2011 in WP.No.11905 of 2008)

..5th Respondent in

WP.11905 of 2008

8.S.167 Vaiyappamalai Primary Agricultural
Co-operative Credit Society Ltd.,
Rep. by its Special Officer, Vaiyappamalai,
Tiruchengode Taluk, Namakkal District.
(impleaded as per order dated 22.01.2016 in
M.P.No.2 of 2011 in WP.No.11905 of 2008)
..6th Respondent in WP.11905 of 2008

9.10477 Elachipalayam Primary Agricultural
Co-operative Credit Society Ltd.,
Rep. by its Special Officer, Elachipalayam,
Tiruchengode Taluk, Namakkal District.
(impleaded as per order dated 22.01.2016 in
M.P.No.3 of 2011 in WP.No.11905 of 2008)
..7th Respondent in WP.11905 of 2008

10.S.706 Mallur Primary Agricultural
Co-operative Credit Society Ltd.,
Rep. by its Special Officer,
Malur, Salem District.
(impleaded as per order dated 22.01.2016 in
M.P.No.4 of 2011 in WP.No.11905 of 2008)
..8th Respondent in WP.11905 of 2008

11.S.1236, Valapady Primary Agricultural
Co-operative Credit Society Ltd.,
Rep. by its Special Officer,
Valapadi, Salem District.
(impleaded as per order dated 22.01.2016 in
M.P.No.1 of 2011 in WP.No.11906 of 2008)
..5th Respondent in WP.11906 of 2008

Writ Petition filed under Article 226 of the
Constitution of India, praying to issue a Writ of Certiorari
calling for the records on the file of the 3rd respondent
relating to the order dated 31.3.2008, 07.12.2007 and 23.11.2007
pursuant to E.P.504/07.08, 575/07/08 and 155/07/08 respectively
and quash the same.

For Petitioner : Mr.S.Selva Thirumurugan
For Respondents 1 to 3: Mr.L.P.Shanmugasundaram
Additional Government Pleader
For Respondent 4 : Mr.S.Palanisamy

COMMON ORDER

Heard Mr.S.Selva Thirumurugan, learned counsel
appearing for the petitioner; Mr.L.P.Shanmugasundaram , learned
Additional Government Pleader appearing for the respondents 1 to
3 and Mr.M.S.Palanisamy, learned Counsel appearing for the

fourth respondent and with their consent, these Writ Petitions are taken up for final disposal.

2. In all these Writ Petitions, Palace Nagar Co-operative Housing Society, Salem is the petitioner and they had challenged the attachment notice issued by the third respondent for recovery of the dues pursuant to the award passed by the second respondent. To implement the said award, the Mallur Primary Agricultural Co-operative Credit Society Ltd., had filed Execution Petition in E.P.No.504/07.08.

3. The claim made by the Valapady Primary Agricultural Co-operative Credit Society Ltd., Valapadi, Salem, against the petitioner's Society is on account of deposit which they have made in the petitioner's Society, stating that the same has not been returned together with interests.

4. In fact, the petitioner's Society is in deep trouble on account of various issues and this Court treated the matter in batch of cases in W.P.Nos.29301 & 29302 of 2014, 30673 to 30682 of 2014, 30683 to 30691 of 2014 etc., and by an order dated 07.01.2016, this Court issued certain comprehensive directions. The operative portion of the order reads as follows :

"11. In the light of the above factual scenario, at this stage of the matter, this Court could not be in a position to issue a direction to the respondents to execute the Sale Deed, since as on date, when an order of attachment is in force, without raising the same, it would not be applicable and it would not be legally tenable and therefore the following order would meet the ends of justice.

"The Writ Petitions are disposed of by directing the Registrar of Co-operative Societies (Housing) to take up the matter either by himself or by the Officer of sufficient seniority and jurisdiction to consider a one-time solution for the entire problem, bearing in mind the interest of the petitioners, PACCS, Housing Federation and also the interest of the petitioners, who are all senior citizens aged above 70 years, for which purpose, the 1st respondent has issued notice to the petitioners or their Association, the PACCS, the House Building Society and the Federation to collect the details and work out the value of the property, what are the dues payable and thereafter chart out the plan of action, whereby the petitioners get the benefit of the sale deed, the PACCS are able to release the deposit

amount and the Federation to recover the loan amount."

12. The above direction would be completed within a period of three (3) months from the date of receipt of a copy of this order. If further extension of time is required, it is open to the 1st respondent to approach this Court. It is also open to the 1st respondent to seek any further clarification in the process of executing the order. "

5. In fact the claim made by the Valapady Primary Agricultural Co-operative Credit Society Ltd., against the petitioner's Society is also a subject matter of dispute covered in the earlier order. Therefore, these Writ Petitions also stands disposed of on the same lines as that of the W.P.Nos.29301& 29302 of 2014, 30673 to 30682 of 2014, 30683 to 30691 of 2014 etc., and the Registrar so nominated shall also take into consideration the plea raised by the Valapady Primary Agricultural Co-operative Credit Society Ltd., in these Writ Petitions. No costs. Connected M.Ps are closed.

22.01.2016

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These petitions hearing been posted on twenty eighth day of January 2016 under the caption "for being mentioned" in the present of the petitioner's counsel this court made the following order;

This matter is listed today under the caption "for being mentioned". When this matter was taken up for hearing, the learned counsel for the petitioners submitted that the question of waiver of interest may be clearly stated in the order dated 22.01.2016. Accordingly, the following order is passed:

"6.The learned counsel for the parties pointed out that since this Court has also made certain observations to consider the question of waiver of interest etc., "The competent authority to decide the issue of waiver of interest, being the Registrar of Co-operative Societies, the Registrar of Co-operative Societies (Housing) or the officer nominated to comply with the direction issued by this Court dated 07.01.2016, shall obtain appropriate orders from the Registrar of Co-operative Societies for considering the claim for waiver of interest."

2.This paragraph shall be added to the order dated 22.01.2016 as the penultimate paragraph.
Sgl

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To:

- 1.The Registrar of Co-operative Societies,
EVR Salai, Kilpauk, Chennai - 10.
- 2.The Deputy Registrar of Co-operative Societies,
Salem Circle, Salem.
- 3.The Sale Officer-cum-Co-operative
Sub Registrar (Crime)
Salem.
- 4.The Registrar of Co-operative Societies (Housing)
Nandanam, Chennai - 35.
- 5.The Special Officer,
S.706 Mallur Primary Agricultural
Co-operative Credit Society Ltd.,
Malur, Salem District.
6. The Special Officer,
S.6648 Attur Mulluvadi Primary Agricultural
Co-operative Credit Society Ltd.,
Attur Salem.
7. The Special Officer, S.167 Vaiyappamalai
Primary Agricultural Co-operative Credit Society Ltd.,
Vaiyappamalai,
Tiruchengode Taluk, Namakkal District.
- 8.The Special Officer,
10477 Elachipalayam Primary Agricultural
Co-operative Credit Society Ltd.,
Elachipalayam,
Tiruchengode Taluk, Namakkal District.
9. The Special Officer, S.1236,
Valapady Primary Agricultural
Co-operative Credit Society Ltd.,
Valapadi, Salem District.

10. The Deputy Registrar of Co-Op.Societies,
Attur Circle, Attur.

11. The Sale Officer-cum-Co-OP.Sub Registrar,
Attur, Salem & District.

+ 1 cc to Mr.S. Selvathirumurugan, Advocate 5216

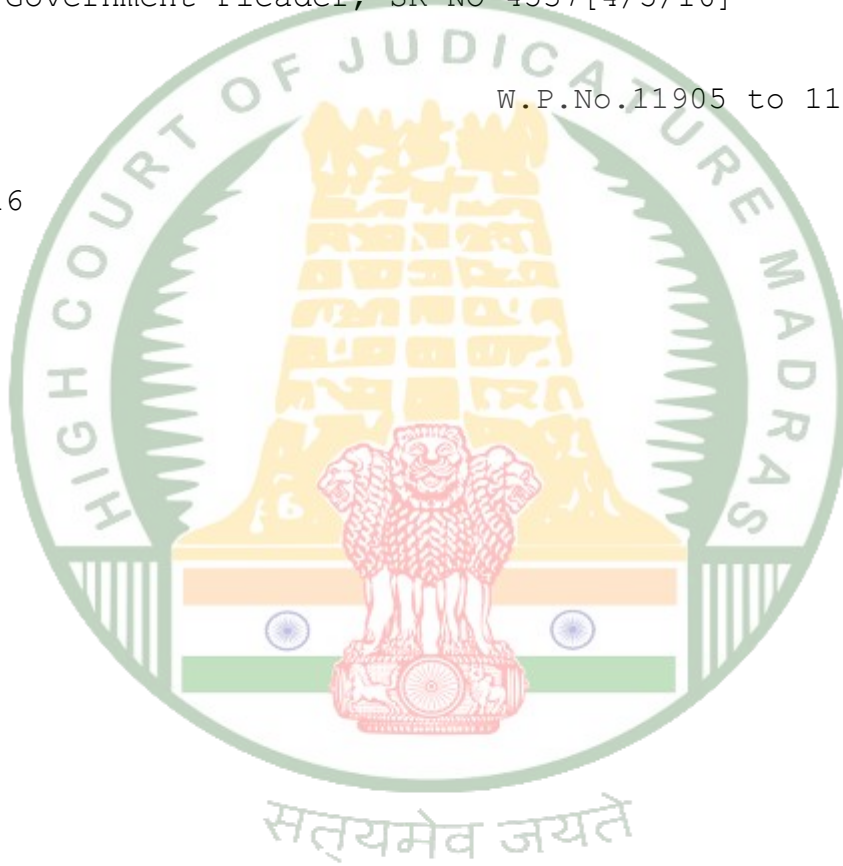
+ 1 cc to Mr.S.Palanisamy, Advocate Sr 4038 (17/3/16)

+ 1 cc to Mr.S.Selva Thirumurugan, Advocate Sr 3962 (2/5/16)

+ 1 CC to Government Pleader, SR NO 4537[4/5/16]

W.P.No.11905 to 11907 of 2008

SCD(CO)
Eu 12.02.16



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