

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 29551 of 2016

R. Ghunasekaran (Member No.2261)

..Petitioner

Vs.

1. The Secretary,
Co-operation, Food and Consumer
Protection Department,
Secretariat,
Chennai - 600 009.
2. The Registrar of Co-operative
Societies,
No. 170, N.V. Natarajan Maaligai,
EVR High Road, Kilpauk,
Chennai - 600 010.
3. The Joint Registrar of Co-operative
Societies,
Erode Zone, Kannaiya Layout,
Karungalpalayam,
Erode - 638 003.
4. The Deputy Registrar of Co-operative
Societies,
Gobi Region, Bajanai Kovil Street,
Gobichettipalayam,
Erode District.
5. The Secretary,
No. A.A - 250 Kannapalli PACS Ltd.,
P.K. Pudur, Anthiyur - Taluk,
Erode District PIN: 638 504.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the respondents to consider representation dated 01.08.2016 for waiver of Crop Loan amount of Rs.87,000/- based upon G.O.(Ms) No. 50 dated 23.05.2016 and G.O.(Ms.) No. 59 dated 28.06.2016, Co-operation, Food and Consumer Protection (CC1) Department.

For Petitioner :: Mr.E.C. Ramesh

For Respondents:: Mr.A. Rajaperumal
Govt. Advocate (Co-op.)

O R D E R

The petitioner claims himself to be a small farmer owning 3 acres of land and seeks the benefit of waiver of crop loan as per G.O.Ms. No. 50 Co-operation, Food and Consumer Protection (CC1) Department dated 23.05.2016. The petitioner's father by name, K. Raja Gopal owned 11.5 acres of land comprised in S.No. 230/1 and 234/1 bearing patta No. 1278 at Kannapalli Village, Anthiyur Taluk, Erode District. After his death on 15.11.2011, his wife (the petitioner's mother) R. Vasanthi, R.Kavitha (petitioner's sister) and the petitioner, being the son are equally entitled to one-third share out of total extent of 9 acres, ie., 3 acres each, as the petitioner's father sold 2.5 acres of land to one Mr. Gurunathan, during his lifetime, on 10.11.2011.

2. According to the petitioner, he obtained crop loan from the 5th respondent and cultivated the crops. But, due to shortage of rainfall, the cultivation failed and therefore, he sustained loss. In view of that, the petitioner applied for loan waiver as per G.O.Ms. No. 50 Co-operation, Food and Consumer Protection (CC1) Department dated 23.05.2016 to the tune of Rs.87,000/- through representations dated 18.05.2015 and 01.08.2016. Since, no action has been taken by the 5th respondent with regard to waiver of loan, the petitioner has come before this Court.

3. Heard Mr.E.C. Ramesh, learned counsel for the petitioner and Mr.A. Rajaperumal, learned Government Advocate (Co-operative) for the respondents.

4. Though the learned Government Advocate would submit, relying upon a mortgage deed, that the petitioner alone had mortgaged the property to an extent of 9 acres and therefore, he is not entitled to the benefit under G.O.Ms. No. 50 Co-operation, Food and Consumer Protection (CC1) Department dated 23.05.2016, as he does not come under the definition of either "small farmer" or "marginal farmer", a perusal of the records, especially, the legal heirship certificate dated 05.12.2011 would show that the petitioner's father, late K.Rajagopal, who was the owner of the property, died intestate, leaving behind three legal heirs including the petitioner. Therefore, it is evident that the petitioner, as per law, is entitled to only 3 acres of land, out of 9 acres of land left by his father. If 3

acres is his lawful entitlement, irrespective of details given in the mortgage deed executed by the petitioner, the petitioner would come under the definition of "small farmer", since as per G.O.Ms.No. 50 dated 23.05.2016, a "small farmer" is a person, who owns land to an extent of 2.5 acres to 5 acres. Therefore, the petitioner is entitled to the benefit under the said G.O. and the crop loan availed by him has to be waived.

5. Accordingly, the 5th respondent is directed to waive the crop loan availed by the petitioner, as per the procedure laid down under G.O.Ms. No.50 Co-operation, Food and Consumer Protection (CC1) Department dated 23.05.2016, discharge him of the liability under the mortgage and return all the documents deposited by the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

6. Post the matter after 6 weeks "For Reporting Compliance".

7. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

nv
To

1. The Secretary,
Co-operation, Food and Consumer
Protection Department,
Secretariat,
Chennai - 600 009.
2. The Registrar of Co-operative
Societies,
No. 170, N.V. Natarajan Maaligai,
EVR High Road, Kilpauk,
Chennai - 600 010.
3. The Joint Registrar of Co-operative
Societies,
Erode Zone, Kannaiya Layout,
Karungalpalayam,
Erode - 638 003.

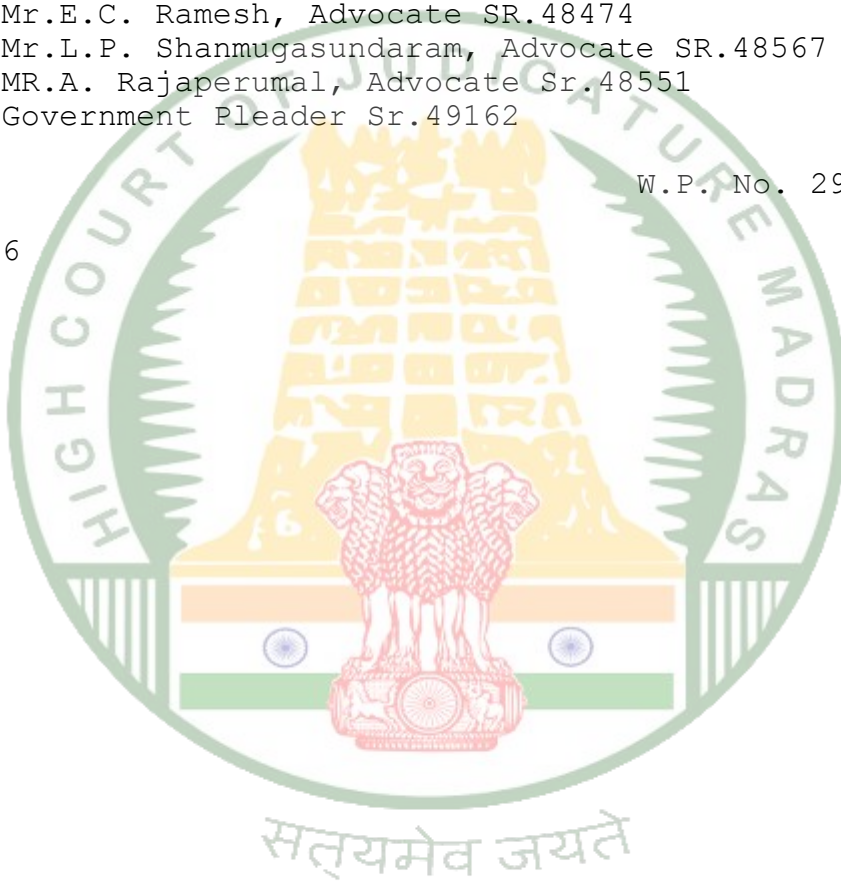
4. The Deputy Registrar of Co-operative Societies,
Gobi Region, Bajanai Kovil Street,
Gobichettipalayam,
Erode District.

5. The Secretary,
No: A.A - 250 Kannapalli PACS Ltd.,
P.K. Pudur, Anthiyur - Taluk,
Erode District PIN: 638 504.

+ 1 cc to Mr.E.C. Ramesh, Advocate SR.48474
+ 1 cc to Mr.L.P. Shanmugasundaram, Advocate SR.48567
+ 1 cc to MR.A. Rajaperumal, Advocate Sr.48551
+ 1 cc to Government Pleader Sr.49162

W.P. No. 29551 of 2016

EV(CO)
Eu 08.09.16



WEB COPY