

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 36578 of 2016

&

W.M.P. No. 31448 of 2016

K.N.P. Venkataraman ..Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
(Full Additional in-charge),
Namakkal - 637 001.
2. The Deputy Registrar of Co-operative Societies,
Namakkal Circle, Namakkal - 637 001.
3. 622 Mohanur Primary Agricultural Co-operative Credit Society,
rep. by its Secretary,
Mohanur,
Namakkal Taluk and District - 637 002. ..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records connected with the proceedings dated 16.09.2016 made in Na.Ka. 3037/2016/thoveysa on the file of the 1st respondent herein confirming the proceedings dated 09.09.2016 made in Na.Ka. 2669/2016 thoveysa on the file of the 2nd respondent herein and quash the same and consequently direct the respondents herein to waive the loan of Rs.1,00,000/- obtained by the petitioner on 27.11.2015 from the 3rd respondent herein.

For Petitioner :: Mr.T. Dhanyakumar

For Respondents :: Ms.T. Girija

Govt. Advocate (Co-operatives)

O R D E R

The petitioner contends that he is a small farmer and that he availed loan to the tune of Rs.1 lakh from the 3rd respondent on 27.11.2015 for agricultural purpose. Though the petitioner was owning 4.14 acres of land, however, according to the petitioner, by mistake, while availing the loan, he had declared as if he was having 5.88 acres, which included 1.75 acres of land, comprised in Survey No. 127, already sold to one Nallammal by virtue of sale deed dated 23.11.2011. Therefore, pursuant to G.O.Ms. 50 Co-operation Food and Consumer Protection (CC1) Department dated 23.05.2016, issued by the Government, when the benefit of waiver of loan was given to small farmers, ie. those who owned less than 5 acres of land, the petitioner's name was not included in the waiver list. Hence, the petitioner made a representation to the 2nd respondent furnishing all the details and relevant documents in support of his claim. However, by proceedings dated 09.09.2016, the 2nd respondent took a view that the petitioner is not entitled to waiver of loan, as against which, the petitioner preferred an appeal to the 1st respondent herein. The 1st respondent, by proceedings dated 16.09.2016, rejected the appeal filed by the petitioner stating that he does not come within the definition of "small farmer", to claim the benefit of waiver, as he owns more than 5 acres of land. Challenging the same, the present writ petition has been filed.

2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3. It is evident from the records that the petitioner was originally owning 5.88 acres of land and subsequently, he sold 1.75 acres of land, comprised in S.No. 127, by virtue of sale deed dated 23.11.2011 vide document No. 2381 of 2011 on the file of SRO, Mohanur. On the date of availing the loan, ie. on 27.11.2015, the petitioner was owning only 4.14 acres equivalent to 1.67.50 hectares. Therefore, the petitioner is a small farmer and he is entitled to the benefit of waiver of loan announced for small farmers by G.O.Ms. No. 50 dated 23.05.2016. The impugned order is accordingly set aside and the writ petition is allowed. The respondents are directed to pass orders waiving the entire loan availed by the petitioner, within a period of two weeks from the date of receipt of a copy of this order.

4. Though the writ petition has been allowed, this Court cannot be oblivious of the fact that the petitioner had misrepresented to the 3rd respondent while availing the agricultural loan on 27.11.2015. Eventhough the petitioner had sold 1.75 acres of land, out of the total extent of 5.88 acres,

as early as on 23.11.2011, deliberately, with mala fide intention, he had included the said extent of land as his own property and filed a declaration before the 3rd respondent and availed the loan. This conduct of the petitioner has to be condemned and deprecated. Therefore, while granting the benefit of waiver of loan, this Court directs the petitioner to pay a sum of Rs.10,000/- (Rupees Ten Thousand Only) as costs to The Cancer Institute, Adyar, within a period of two weeks from the date of receipt of a copy of this order. Connected W.M.P. is closed.

5. Post the matter "For Reporting Compliance" regarding costs on 21st November, 2016.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv
To

1. The Joint Registrar of Co-operative Societies,
(Full Additional in-charge),
Namakkal - 637 001.
2. The Deputy Registrar of Co-operative Societies,
Namakkal Circle, Namakkal - 637 001.
3. The Secretary,
622 Mohanur Primary Agricultural
Co-operative Credit Society,
Mohanur,
Namakkal Taluk and District - 637 002.

4 The Section Officer, Writ Section, High Court, Madras
(for watching report)

+1cc to Mr.T. Dhanyakumar, Advocate, S.R.No.60807
+1cc to Mr.T. Girija, Advocate, S.R.No.60612
+1cc to the Government Pleader, S.R.No.60772

gr(CO)
md(18/11/2016)

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