

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.12.2016

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

WP.No.37571/2016 & WMP.Nos.32192 TO 32194/2016

T.K.Sivam

..Petitioner

Versus

- 1.The Secretary to Government
State of Tamil Nadu, Cooperation,
Food and Consumer Protection
Department, Fort St. George,
Chennai 600 009.
 - 2.The Joint Registrar of Cooperative Societies
Erode District.
 - 3.The Deputy Registrar of Cooperative Societies
Gopichettipalayam, Erode District.
 - 4.The President
AA-321, Puthukaraiputhur Primary Agricultural
Cooperative Bank Limited, Puthukaraiputhur,
Gopichettipalayam Taluk,
Erode District-638313.
- ..Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for a writ of certiorarified mandamus, calling for the records relating to the passing of the impugned orders passed by the 3rd respondent made in his proceedings in Na.Ka.2426/2016/Tho.Ve.Sa dated 09.09.2016 and consequential order passed by the 2nd respondent in Na.Ka.No.6132/2016/Tho Ve Sa [74] dated 16.09.2016, quash the same and consequently direct the 2 to 4th respondent to extend the benefit of Small and Marginal Farmers Loan Waiver Scheme, 2016, promulgated in G.O.Ms.No.59 dated 28.06.2016 issued by the 1st respondent to the petitioner.

For Petitioner : Mrs.T.P.Savitha

For Respondents : Ms.T.Girija, GA

ORDER

Heard Mrs.T.P.Savitha, learned counsel for the petitioner and Ms.T.Girija, learned Government Advocate appearing for the respondents and with the consent on either side, the writ petition is taken up for final disposal.

2 The petitioner is the owner of the property admeasuring to an extent of 0.13 acres, comprised in Survey No.148/1B ; 2.84 3/4 acres comprised in Survey No.199/1,2&3 ; 1 acre comprised in Survey No.156/4 and 0.59 1/4 acre comprised in Survey No.156/3, situate in Nanjaigopi Village, Erode District. The petitioner had applied for jewel loan for the purpose of cultivation, to the tune of Rs.1,15,000/- and a sum of Rs.90,000/- towards Kisan Credit Card Loan. The petitioner had sought for waiver of the loans as per G.O.Ms.No.50 dated 23.05.2016 and G.O.Ms.No.59 dated 28.06.2016 respectively as he is a small farmer having five acres of land. The said claim of the petitioner was rejected by the 3rd respondent vide order dated 09.09.2016 and the appeal preferred as against the said order before the 2nd respondent was also dismissed on 16.09.2016, confirming the order passed by the 3rd respondent and challenging the said orders, the petitioner is before this Court.

3 The learned counsel for the petitioner would submit that the petitioner is a small farmer having 5.17 acres of land and that his claim of waiving the loan has been rejected on the ground that he is in possession of more than 5 acres of land. It is her further contention that a fraction of 17 cents would not make the petitioner, a big farmer and hence, prays for the setting aside of the above impugned orders.

4 Ms.T.Girija, learned Government Advocate appearing for the respondents would vehemently and strenuously oppose the said contention of the learned counsel for the petitioner and submitted that the petitioner is not entitled to for any waiver as he is possessing more than the prescribed limit of 5 acres of land as specified in the above Government Orders.

5 This Court considered the rival submissions made on either side and also perused the materials placed before it, in particular, the Government Orders relied on by the petitioner.

6 It is the submission of the learned Government Advocate that the petitioner is in possession of about 5.17 acres of land and he is not covered by the aforesaid Government Orders for getting the benefit. However, a close scrutiny of the above Government Orders would reveal that those farmers who are having 2.5 acres to 5 acres are called "small farmers" and those who are having lands upto 2.5 acres of land are called "marginal farmers". Without the excess 17 cents, the petitioner would come under the category of "Small Farmers". The authorities / respondents cannot expect the petitioner, should always, by a straight jacket formula, satisfy the norms as prescribed in the above said Government Orders. What is in excess, is only 17 cents and by the said 17 cents, the petitioner's position will not be improved or cannot be magnified as a "big farmer". Even, the cultivation of the said 17 cents will not yield much. For all practical purposes, the petitioner has to be treated as a small farmer and the excess fraction of 17 cents will not take away the position of the

petitioner as a small farmer. Therefore, the petitioner will not come under the definition of 'Small farmer' and the 17 cents will not, in any way, alter his position. Therefore, the petitioner is entitled to the benefit of the Government Orders in G.O.Ms.No.50 dated 23.05.2016 and G.O.Ms.No.59 dated 28.06.2016 respectively.

7 Accordingly, the writ petition is allowed and the impugned order passed by the 3rd respondent in his proceedings in Na.Ka.2426/2016/Tho.Ve.Sa dated 09.09.2016 and the consequential order passed by the 2nd respondent in Na.Ka.No.6132/2016/Tho Ve Sa [74] dated 16.09.2016 are hereby set aside. The respondents, in particular, the 4th respondent is directed to give the waiver of loan to the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

AP

Sd/-
Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

- 1.The State of Tamil Nadu rep. by
The Secretary to Government, Cooperation,
Food and Consumer Protection
Department, Fort St. George,
Chennai 600 009.
- 2.The Joint Registrar of Cooperative Societies
Erode District.
- 3.The Deputy Registrar of Cooperative Societies
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- 4.The President
AA-321, Puthukaraiputhur Primary Agricultural
Cooperative Bank Limited, Puthukaraiputhur,
Gopichettipalayam Taluk,
Erode District-638313.

+1 CC Mrs.T.P.Savitha Advocate SR.No.71153

+1 CC Ms.T.Girija, Advocate SR.No.71351

WP.No.37571/2016

RK [CO]

MSI 20/01/2017