



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11..09..2018
CORAM

WEB COPY

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.38139 of 2016
and
W.M.P.No.32679 of 2016

V.Senthil

... Petitioner

-Versus-

1.The Deputy Registrar of Cooperative
Societies,
Cuddalore-607001.

2.The Secretary,
F.C.2858 Kurinjipadi Panchayat Union &
Aided Primary School, High School and
Higher Secondary School Teachers' Cooperative
Thrift & Credit Society Limited,
Anna Nagar, Kurinjipadi Taluk,
Cuddalore District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to the proceedings of the 1st respondent in A.F.No.182/2016 dated 'Nil' and to quash the same.

For Petitioner	: No Appearance
For Respondents	: Mr.L.P.Shanmugasundaram, Special Government Pleader for R1 Mrs.T.Girija, Government Advocate (Coop) for R2

ORDER

Challenging the summons issued by the Deputy Registrar, Central Cooperative Bank, Cuddalore District, under Section 90 of The Tamil Nadu Cooperative Societies Act, 1983 requiring the petitioner to appear before him for enquiry on 22.09.2016 in connection with an arbitral proceedings initiated for recovery of money, the petitioner is before this court by way of the instant writ petition.



WEB COPY

2. The petitioner is the husband of one Mrs.N.Jayanthi. The wife of the petitioner was working as a Teacher in Anjalai Ammal Government Aided Primary School, Adoor Agaram, Kurinjipadi Taluk, Cuddalore District. She was a member of 2nd the respondent society under F.C.No.2858. According to petitioner, his wife had availed a loan of Rs.3,00,000/- from the respondent society on 15.03.2013. The 2nd respondent had, after deducting a sum of Rs.40,000/- towards compulsory deposit, released a sum of Rs.2,60,000/- out of Rs.3,00,000/-. The employer of the wife of the petitioner has undertaken to deduct the loan amount with interest in equal installments from her monthly salary and pay the same to the society. While so, the wife of the petitioner died on 07.08.2015 in a road accident. After her death, no amount was paid towards outstanding of loan amount. Therefore, the 2nd respondent had taken steps to recover the loan amount and in that process, summons has been issued under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983 by the 1st respondent. It is this summon which is now under challenge in the instant writ petition.

3. Earlier, the writ petition was dismissed by a learned single Judge of this court by order dated 03.11.2016 with cost of Rs.25,000/- to the Chief Justice Relief Fund. Challenging the same, the petitioner preferred an appeal in W.A.No.148 of 2017 and a Division Bench of this Court, by order dated 17.02.2017, allowed the writ petition, set aside the order of the learned single Judge and restored the writ petition. That is how the writ petition is now before this court for disposal.

4. On 05.09.2018, when the writ petition was called, the learned counsel for the petitioner had submitted that he had already withdrawn his appearance and handed over the papers to the petitioner and also filed a memo to that effect. Therefore, this court directed the Registry to print the name of the petitioner and list the matter today.

5. Today, when the matter came up for hearing, the petitioner is neither present in person nor represented by a counsel despite his name has been printed in the cause list and therefore, this court has no other option except to proceed with against the petitioner ex parte.

6. The 2nd respondent filed a detailed counter affidavit wherein he inter alia stated that an award has already been passed as against the petitioner and another in ARC No.182/2016-17 as early as on 18.10.2016 itself for recovery of a sum of Rs.2,63,515/- with interest and therefore, nothing survives in this writ petition for further adjudication.



7. The instant writ petition has been filed challenging the summons issued under Section 90 of the Act for enquiry in the arbitral proceedings. As rightly pointed out by the learned Government Advocate, much before the order was passed by this court on the earlier occasion dismissing the writ petition, i.e., on 13.11.2016, an award was passed in the arbitral proceedings as against the petitioner and another for recovery of loan dues, Therefore, this court is of the considered view that nothing survives in this writ petition for further adjudication and if at all the petitioner has got any grievance, it is always open to him to challenge the award in the manner known to law.

8. In the result, the writ petition is dismissed. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

kmk

+1cc to Mr.T.Girija, Advocate, S.R.No.63413

+1cc to the Government Pleader, S.R.No.63438

W.P.No.38139 of 2016

GSP(12/10/2018)