

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P No.42226 of 2016
and WMP No.36134 of 2016

1 K.R.Sakthivel ... PETITIONER

Vs

- 1 The Joint Registrar
Office of Joint Registrar Co-operative Societies
District Collectorate , Tiruppur
 - 2 The Deputy Registrar,
Office of Deputy Registrar of Co-operative Societies
B.R.Main Street , Dharapuram
 - 3 The Secretary (Incharge)
K-543 Nanjaithalaiyur Primary Agricultural
Co-operative Credit Society , Nanjaithalaiyur
Dharapuram Taluk ,
Tiruppur District
 - 4 The Tahsildar
Dharapuram Taluk ,
Dharapuram
Tiruppur District
 - 5 The Village Administrative Officer
NO.48 Punjaithalaiyur Village
Dharapuram Taluk ,
Tiruppur District
- ... RESPONDENTS

Writ petition is filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 2nd respondent herein dated 09.09.2016 in Na.Ka. No. 2492/2016/ Co. So. (88) as well as the consequential order passed by the 3rd respondent herein in proceedings NO.Nil dated 13.10.2016 and quash the same and consequently directing the respondents herein to waive the loan availed by the petitioner herein in KCC loan Account No.718 dated 13.08.2015 and Mid Term Loan account No.90 dated 28.02.2015 by extending the benefit of G.O. (Ms). No.50

dated 23.05.2016 and G.O. (Ms) No. 59 Co- Operation Food and Consumer Protection Department dated 28.06.2016 to the petitioner herein.

For Petitioner : Mr.S.Saravanan

For R-1 & R-2 : Mr.V.Selvaraj,
Additional Govt. Pleader

For R-3 : Ms.T.Girija,
Government Advocate

For R-4 & R-5 : Mr.M.Elumalai,
Government Advocate

O R D E R

The petitioner challenges the order of rejection of the claim of the petitioner to grant the waiver of agricultural loan benefit. The petitioner contends that he is the owner of the property to an extent of 4 acres of land comprised in Survey No.790/1, an extent of 0.10 acres comprised in SF No.867 and an extent of 0.07 acres comprised in SF No.563/2, Punjaithalaiyur Village, Dharapuram Taluk, Tiruppur District.

2. The petitioner availed loan for rearing the goat bearing Loan No.90 dated 28.02.2015 and also availed crop loan to the tune of Rs.60,000/- on 13.08.2015 from the third respondent. The petitioner is also said to have repaid a sum of Rs.7,500/- towards loan account No.90. The Government came out with waiver of loans availed by small and marginal farmers and payable to the co-operative Banks as on 31.03.2016. As the petitioner is a small farmer, he claims the benefit of crop loan waiver and the same has been rejected by the respondents. The said order is being challenged before this court.

3. Heard Mr.S.Saravanan, learned counsel appearing for the petitioner, Mr.V.Selvaraj, learned Additional Govt. Pleader appearing for the first and second respondents, Ms.T.Girija, learned Government Advocate, who takes notice on behalf of the third respondent and Mr.Elumalai, learned Government Advocate, who accepts notice on behalf of the fourth and fifth respondents.

4. Though the petitioner contends that he owns lands only to the tune of 4 acres, while availing loan, the petitioner himself has given a certificate obtained from the Village Administrative Officer stating that he owns 8.21 acres of land

comprised in S.F.Nos.790/1, S.F.No.867 and S.F.No.563/2 of Punjaithalaiyur Village, Dharapuram Taluk, Tiruppur District. Later, realizing that the certificate issued by the Village Administrative Officer would come in the way of getting loan waiver, now the petitioner states that by mistake, the Village Administrative Officer, erroneously has given the certificate as if he is having 8.21 acres of land.

5. Assuming for a moment that if the Village Administrative Officer has given a certificate erroneously, if really the petitioner had only 4 acres of land, nothing prevented him at the time of availing loan to get the mistake rectified. Though it is stated that it has been wrongly stated, even as per the rectified certificate alleged to have been issued by the Village Administrative Officer on 12.10.2013 only discloses that the property stands in the name of his wife and not in the name of third parties.

6. Admittedly, the petitioner and his wife are living together and his wife has got no independent income. Merely because the property stands in the name of his wife, the petitioner cannot take advantage of that and claim waiver. Even as per the document, the petitioner and his wife have got about 8 acres of land and therefore they cannot be called as marginal or small farmers. Hence, the rejection order passed by the authority is sustainable. Even if the properties are standing in the name of husband and wife separately, they cannot be called as independent farmers. Hence, they are not eligible for grant of waiver of crop loan. Not only the petitioner, his wife is also not entitled for any loan waiver from the respondents.

7. In the result, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

rgr

To

1. The Joint Registrar
Office of Joint Registrar Co-operative Societies
District Collectorate , Tiruppur

2. The Deputy Registrar,
Office of Deputy Registrar of Co-operative Societies
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4. The Tahsildar
Dharapuram Taluk ,
Dharapuram
Tiruppur District
5. The Village Administrative Officer
NO.48 Punjaithalaiyur Village
Dharapuram Taluk ,
Tiruppur District

+1cc to Mr.S.Saravanan sr.71195

+1cc to Government Pleader sr.71428

+1cc to M/s.T.Girija sr.71350

vgi(co)
ss(19/01/2017)

W.P No.42226 of 2016

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