THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION NO.1508 OF 2009

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking to issue writ of mandamus declaring the order passed by the 1st respondent in DCCB/ADMN/ADWDRS/BDL/8, dated 09-09-2008, as arbitrary illegal and contrary to the Debt Waiver and Debt Relief Scheme, 2008 and consequently direct the respondents to extend the benefits available under the above Debt Waiver/Relief Scheme, 2008 to the petitioner.

2. The brief averments in the affidavit filed in support of the writ petition are as follows:

The petitioner states that she is having small agricultural holding in an extent of Ac.2.50 cents in RS No.1013, situated at Pulla village of Bhimadole Mandal, West Godavari District. She took loan on 28-12-2002. The said loan was outstanding as on the date of announcement of Debt Waiver and Debt Relief Scheme, 2008 introduced by the Central Government. She submitted representation to the 1st respondent and to the 3rd respondent claiming benefit under the scheme. The 1st respondent issued the impugned proceedings, dated 09-09-2008 rejecting the representation of the petitioner on the ground that since the loan was taken for commercial purpose, the Debt Waiver scheme is not applicable to her. It is the further case of the petitioner that the 3rd respondent society filed a claim petition under Section 71 of the Andhra Pradesh Co-operative Societies Act, 1964 (for short 'the Act') stating that the loan taken by the petitioner was an agricultural loan and the said claim petition was allowed against the petitioner. Challenging the said order, the petitioner filed O.A.No.76 of 2005 and the same was disposed of on 03-04-2006 holding that the said loan was crop loan. In those circumstances, she states that the impugned order, dated 09-09-2008 is liable to be set aside.

3. A counter-affidavit is filed on behalf of the respondents 1 and 2 stating that the petitioner took crop loan of Rs.15,000/- by creating a charge on her agricultural land. She also availed long term loan for dairy and loan for fertilizers. She is regular in repaying the loans also. She also availed additional loan of Rs.1,00,000/- on 28-12-2002 for business activities at 22% duly executing the 'Form of Bond for subsequent advances under loan No.6500/STNAP'. She repaid crop loan of Rs.15,000/- on 26-12-2003 and defaulted in repaying the loan of Rs.1,00,000/- taken for business activities. The husband of the petitioner was the secretary of the Society at the time of sanction of the loan and he himself passed voucher in favour of the petitioner. Thus, the petitioner is fully acquainted with the facts that the loan availed was for the purpose of business activities and not for agricultural purpose. As per ADWDRS, 2008 announced by the Government of India, all agricultural advances of small and marginal farmers, which remained unpaid as on 29-02-2008 will be waived. Since the said loan of Rs.1,00,000/- was availed for the purpose of business activities, which is not for agricultural purpose, the loan was not eligible for waiver. In the claim petition filed under Section 71 of the Act, the Sale Officer issued a notice mentioning the details of arrears and the purpose of loan was wrongly mentioned as agriculture, which was a clerical mistake. The petitioner availed crop loan, loan for dairy and loan for fertilizers etc., on the security of the same land. The loan covered by the present writ petition was for business activities and was sanctioned to the petitioner on the basis of existing declaration bond for Rs.1,30,000/-. As on the date of sanction of loan, only crop loan for Rs.15,000/- was outstanding. She was eligible for a loan of Rs.1,15,000/-. Accordingly, the loan was sanctioned for business activities duly obtaining 'Bond for subsequent advances'.

4. The 3rd respondent also filed a separate counter re-iterating the stand taken by the respondents 1 and 2.

5. It is clear from the above facts that the petitioner availed crop loan of Rs.15,000/- by creating a charge on her agricultural land of Ac.2.50 cents and submitted a declaration bond on 06-07-1996. She also availed long term loan and loan for dairy. Besides the same, she availed loan for fertilizers. She registered declaration bond with Sub-Registrar, Bhimadole for creating a charge on the land for Rs.1,30,000/- and availed Rs.15,000/- as crop loan. Since there was a practice prevailing to sanction additional loan apart from crop loan, an amount of Rs.1,00,000/- was sanctioned on the security of the same charge on 28-12-2002 for business activities. As per the loan waiver scheme announced by the Government of India in 2008, only agricultural advances, which remained unpaid as on 29-02-2008 are eligible for waiver. Since the petitioner availed loan of Rs.1,00,000/- for business activities, the impugned order was passed rejecting the request of the petitioner for Agricultural Debt Waiver/Relief Scheme, 2008. In those circumstances, this Court finds that there are no grounds to interfere with the impugned order, dated 09-09-2008.

6. Accordingly, the Writ Petition is dismissed. No order as to costs. Miscellaneous petitions, if any pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

DATED: 08-12-2016
Hsd