

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.05.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 10405 of 2015

G.Adhimmoalam

.. Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies
Collectorate Compound,
Villupuram, Villupuram District.

2. The Deputy Registrar(Co-operative Society)
Jayaram Colony,
Nagalapuram,
Thindivanam

3. The President / Secretary
Andhipuram, Primary Agricultural Co-operative Bank,
Andhipuram, Gingee Taluk,
Villupuram District

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the third respondent to pay the petitioner the balance sum of Rs.4,07,0965/- with accrued interest from the date of deposit to the petitioner.

For Petitioner : Mr.G.Rajan - No Appearance
 For RR1 & 2 : Mr.V.Selvaraj
 Additional Government Pleader
 For R3 :Mr.L.P.Shanmugasundaram
 Special Government Pleader

ORDER

The petitioner has filed this Writ Petition seeking for a direction to the third respondent-Bank to pay the balance sum of Rs.4,07,0965/- with accrued interest from the date of deposit to the petitioner.

2. According to the petitioner, he is owning an agricultural land and planted sugar cane in the aforesaid land. The petitioner availed agricultural loan from the third respondent-co-operative bank to the tune of Rs.1,36,850/- (Rupees one lakh thirty six thousand eight hundred and fifty only). The sugar cane planted in the agricultural land has been registered with Raj Shree Sugars Chemicals Ltd, Cheemamedu. The aforesaid Raj Shree Sugars Chemicals had agreed to remit the bill amount directly to the petitioner's bank account with the third respondent-Bank, in turn, the third respondent-Bank is entitled to deduct the amount to be repaid by the petitioner and to remit the balance amount to the credit of

the petitioner's account. Accordingly, supplies were made and the sugar mills also prepared three bills dated 22.02.2014, 07.03.2014 and 15.03.2014 for the amount of Rs.1,52,292/-, Rs.33,042/- and Rs.3,59,481/- respectively to the petitioner. The aforesaid bill amounts have been remitted through cheques by the Sugar Mills to the credit of the petitioner's account with the third respondent-Bank. After the said amount has been remitted, the petitioner approached the third respondent-Bank for withdrawal of the balance amount, after deducting the loan amount. According to the petitioner, the total bill amount payable by the third respondent-Bank is Rs.5,44,815/- and the loan amount due is Rs.1,36,850/-. After deducting the loan amount, the balance amount comes to Rs.4,07,965/- (Rupees four lakhs and seven thousand and nine hundred sixty five only) as on 01.04.2014, has to be refunded to the petitioner. When the petitioner approached the bank to make entries in the account pass book, they refused to do so and also to withdraw the aforesaid amounts due to him. Hence, the petitioner made a representation on 20.05.2014 demanding them to return the amount credited in the account and to take appropriate action as against the bank staffs involved in the fraud. Since there was no response, he sent

another representation dated 18.06.2014 followed by reminders dated 18.07.2014 and 18.08.2014. In spite of several representations, no action has been taken by the respondents. Therefore, the petitioner was constrained to file a Writ of Mandamus before this Court in W.P.No.32060 of 2014, directing the third respondent to return the amount with accrued interest. The said writ petition was disposed of by this Court on 08.12.2014 and directed the respondents to consider the representation of the petitioner dated 20.05.2014 and to pass orders on merits and in accordance with law after conducting enquiry within a period of eight weeks after receipt of the copy of the order. Pursuant to the said order, the third respondent-Bank sent a reply dated 13.02.2015 stating that surcharge proceedings were initiated against one Ramesh-Secretary under Section 81 of the Tamil Nadu Co-operative Societies Act for misappropriating the amount from the account of the petitioner and the criminal proceedings were also initiated against him. It is also stated that after recovery of the said account, the amount due to the petitioner would be returned. But, the third-responder Bank has not taken any steps to release the amount amount due to the petitioner. Hence, the petitioner has filed the present writ petition.

3. The learned Special Government Pleader appearing for the third respondent-Bank would submit that on the basis of the counter affidavit and relying upon para 13 of the counter affidavit, the third respondent-Bank is ready to pay the balance due to the petitioner, if any loan amount is collected from members or surcharge amount is collected from the Secretary Ramesh and now the society is not in a position to pay the amount to the petitioner at this stage. Further, it is submitted in the counter affidavit that this Court may be disposed of the writ petition with a direction to settle the amount in piece meal being the amount due to the petitioner.

4. In the light of the above said facts and also in light of the statement made in the counter affidavit by the third respondent-Society, which clearly indicate that the petitioner is entitled to receive the balance amount of Rs.4,07,965/-. The reason as stated in the counter affidavit that the third respondent-Society is not in a sound financial position to settle the dues to the petitioner, cannot be accepted as the aforesaid amounts were deposited even in the year 2014. Therefore, I have no hesitation to grant the relief as prayed for by the petitioner by

directing the third respondent-Society to settle the amount due to the petitioner for a sum of Rs.4,07,965/- with accrued interest @ 9% p.a. from the date of the deposit of the aforesaid amount till the realization of the refund amount within a period of three months from the date of receipt of a copy of this order.

5. With the above observations and direction, the Writ Petition is allowed. No costs. Post the matter for compliance on '28.08.2017'.

16.05.2017

Index: Yes/ No
Internet:Yes/No

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To

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