

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.23131 of 2017 and  
WMP No.24236 of 2017

Santha

..Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,  
Nilgiri Zone, Udagamandalam
2. The Deputy Registrar of Co-operative Societies,  
Udagamandalam
3. The President,  
The Kundah Generation Circle Kundah Upper Camp  
And Lower Camp TNEB Employees Co-op Thrift  
and Credit Society Ltd, No.NG-100,  
Kundah Bridge Post, Nilgiris - 643 219
4. The Secretary ,  
The Kundah Generation Circle Kundah Upper Camp  
And Lower Camp TNEB Employees Co-op Thrift  
and Credit Society Ltd, No.NG-100,  
Kundah Bridge Post, Nilgiris - 643 219
5. The Superintending Engineer,  
Non Conventional Energy Services,  
TNGENDCO, 15/5A, Komaralinggam Road,  
Udumalpet, Thiruppur District

..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 3 and 4 to refund Rs.89,520/- which was unlawfully recovered them in the salary account of the petitioner from the month of February 2015 to December 2015 and the deposited amount of Rs.40,000/- along with its interest at the rate of 12% and other documents within an appropriate time by considering the representation of the petitioner herein dated 12.07.2017.

For Petitioner : Mr.R.Nalliyappan  
For Respondents : Mrs.T.Girija,  
Government Advocate for R1 & 2  
  
: Mr.V.Selvaraj, Additional  
Government Pleader for R3 & 4

ORDER:

According to the petitioner, when working in the Office of Kundha Electricity Distribution Circle, the petitioner borrowed a sum of Rs.2,50,000/- from the Kundah Generation Circle Kundah Upper Camp And Lower Camp TNEB Employees Co-op Thrift and Credit Society Ltd on 16.02.2010 and for the same monthly instalments were paid periodically. It is to be noted that the society credited the instalment amount directly from the salary account of the petitioner. As per the loan agreement, the instalment period had been scheduled till January 2015. But after such period also, deductions were made till December 2015. Then, the petitioner made a representation to the third respondent in this regard. By letter dated 09.06.2016, the third respondent replied that the petitioner had closed the loan amount of Rs.3,00,000/- on 10.06.2012 and further availed a loan for a sum of Rs.4,00,000/-, the instalments for the same were paid without any default from 12.06.2012 to 30.11.2013 and thereafter no amount were paid. Hence, the petitioner had to pay a sum of Rs.2,70,800/-. After receipt of the letter, the petitioner made a representation dated 24.06.2016 to the second respondent stating that the petitioner had not availed the above loan and conveyed his contention that the office bearers of the society seemed to have misappropriated the amount by making false entry in the register. Moreover, while perusing the original records, the signature in the register was not the same of the petitioner. By letter dated 29.06.2016, the second respondent instructed the petitioner to verify the same with the loan registers maintained by the society. But, when the petitioner tried to peruse the records, it was understood that the said society did not maintain bills and vouchers properly. The petitioner informed this fact to the second respondent. In turn, the second respondent ordered for an enquiry in his proceedings dated 22.07.2016. The petitioner made representations repeatedly to the respondents to refund Rs.89,520/- and the deposited amount of Rs.40,000/- along with interest. While being so, the third respondent in his letter dated 28.07.2017 stated that the petitioner received a loan of Rs.3,00,000/- on 16.02.2010 and a sum of Rs.1,48,760/- is due to be paid by the petitioner, which is also contrary to the statement made in the letter dated 09.06.2016.

2. The learned counsel for the petitioner would submit that on the instruction of the third respondent, the fifth respondent is regularly deducting the amount in the name of instalment for the alleged loan which was not borrowed by the petitioner. Hence, the petitioner has filed this writ petition before this court.

3. The learned Additional Government Pleader would submit that in view of the full bench judgment made in K. MARAPPAN VS. DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, NAMAKKAL reported in 2006 (4) CTC 689, the petitioner is not entitled to file a writ petition. Further, when the petitioner has an alternative remedy under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983, without exhausting the same, filing a writ petition is not maintainable either on law or on facts.

4. In view of the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader and in the light of the full bench judgment made in K. MARAPPAN VS. DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, NAMAKKAL reported in 2006 (4) CTC 689, the present writ petition filed against the third respondent society is not maintainable. If any grievance, the petitioner has to approach the concerned authority under the provisions of the Tamil Nadu Cooperative Societies Act, 1983. Hence, the writ petition is liable to be dismissed as not maintainable.

5. Therefore, the writ petition is dismissed as not maintainable. However, liberty is granted to the petitioner to approach the concerned authority, if so advised. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Joint Registrar of Co-operative Societies,  
Nilgiri Zone, Udagamandalam
2. The Deputy Registrar of Co-operative Societies,  
Udagamandalam
3. The President,  
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5. The Superintending Engineer,  
Non Conventional Energy Services,  
TNGENDCO, 15/5A, Komaralinggam Road,  
Udumalpet, Thiruppur District

+1cc to Mr.P.R. Dhilip Kumar, Advocate, S.R.No.62898  
+1cc to Mr.V. Selvaraj, Advocate, S.R.No.62281  
+1cc to the Government Pleader, S.R.No.63035  
+ 1 cc to Mr.R. Nalliyappan, Advocate Sr.61912

CS-V  
EU 1.09.17

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