

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 5070 of 2012
and
M.P. Nos. 1 & 2 of 2012

D.Chandra Mohan ... Petitioner

Vs.

1. The Secretary,
Perambalur Co-operative Primary
Agricultural and Rural Development Bank Ltd., YA.85,
Perambalur Post & District - 621 212.
 2. The Special Officer,
Perambalur Co operative Primary
Agricultural and Rural Development Bank Ltd., YA.85,
Perambalur Post & District - 621 212.
- Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records relating to the notification of the respondents made in Daily Thanthi, Trichy Edition dated 25.02.2012, quash the same in so far as Sl.No.2 therein is concerned and to pass further orders.

For Petitioner : Mr.L.Chnadrakumar.

For Respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader.

O R D E R

The Petitioner has filed the present Writ Petition challenging the impugned demand notice dated 25.02.2012 published in the Daily Thanthi newspaper.

2. The learned counsel for the petitioner submitted that the petitioner obtained a loan of Rs.10,00,000/- for agricultural development activities from the respondent society. Due to natural calamities the petitioner was unable to repay the loan instalments properly. Without considering the payments already made by the petitioner and the proposals of the Government granting exemption towards One Time Settlement, the second respondent issued a notice directing the petitioner to pay a sum of Rs.10,31,635/- on or before 31.12.2011, being the due as on 30.11.2010. Aggrieved by the same, the petitioner submitted a representation seeking further waiver of interest towards One Time Settlement. Without considering the said representation, the impugned notification was issued in Daily Thanthi dated 25.02.2012 for attachment of property towards recovery of Rs.17,32,431/-.

3. According to the petitioner, he has made a representation on 27.09.2010 stating that he is willing for One Time Settlement as per the scheme announced by the Government. However, he has sought for waiver of interest. The said representation is pending before the respondent society. While so, the impugned auction notice has been issued by the respondents society. Hence, the petitioner has filed the present writ petition before this Court.

4. The learned counsel for the petitioner further submitted that pursuant to the conditional interim order of this Court dated 02.03.2012, the petitioner has paid a sum of Rs.7,50,000/- on 09.03.2012.

5. Learned Special Government Pleader would submit that the present writ petition is not maintainable in the light of the Full Bench Judgment of this Court in the case of K. MARAPPAN VS. DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, NAMAKKAL reported in 2006 (4) CTC 689. The learned counsel for the respondents would further submit that the petitioner having an efficacious alternative remedy under Section 135 of the Tamil Nadu Cooperative Societies Rules, 1988 should approach the concerned authority to file an objection or claim instead of approaching this Court. Hence, the writ petition is liable to be dismissed as not maintainable.

6. Considering the above submissions made by the learned counsel for the respondent and the decision cited supra, this court is not inclined to entertain the prayer of the petitioner and hence, the writ petition is dismissed as not maintainable. However, liberty is granted to the petitioner to approach to the respondent society, if so advised.

7. Accordingly, the writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

rkp/avr

To

1. The Secretary,
Perambalur Co-operative Primary
Agricultural and Rural Development Bank Ltd., YA.85,
Perambalur Post & District - 621 212.
2. The Special Officer,
Perambalur Co operative Primary
Agricultural and Rural Development Bank Ltd., YA.85,
Perambalur Post & District - 621 212.

+1cc to the Government Pleader sr. 55683

+1cc to Mr.L.Chandrakumar, Advocate Sr. 55801

+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr. 55608

W.P. No. 5070 of 2012
and

सत्यमेव जयते M.P. Nos. 1 & 2 of 2012

SSI (CO)
VR(31/8/2017)

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