

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2017

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. No.2063 of 2015

B.R.Venugopal

.. Petitioner

Vs.

1. The Registrar of Co-op Societies,
Kilpauk, Chennai-10
2. The Deputy Registrar,
Co-op Societies,
Thirupattur,
Vellore District
3. The Special Officer,
Velathur Primary Agriculture,
Co-op Bank, Gudiyatham,
Vellore District

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for record pertaining to impugned order dated 31.10.2014 in C.M.A.No.5/2013 passed by Special Tribunal for Co-operative Society Cases (in the court of Small Causes, Chennai) and quash the same and further direct the third respondent to pay the detained amount sum of Rs.16,387/- together with accrued interest from 06.06.2009 to till the date of payment by realization and to pay interest for Rs.85,438/- from 17.08.2005 to 06.06.2009 and further interest on the defaulted payment of interest for the said period from the beginning of default i.e.06.06.2009 to till the date of payment by realization.

For Petitioner : Mr.S.Senthamil Selvan

For Respondents : Mrs.T.Girija,
Government Advocate

O R D E R

The petitioner has filed this Writ Petition seeking to quash the impugned order dated 31.10.2014 made in C.M.A.No.5/2013 passed by Special Tribunal for Co-operative Society Cases (in the court of Small Causes, Chennai) and to direct the 3rd respondent to pay the detained amount of Rs.16,387/- together with accrued interest from 06.06.2009 to till the date of payment by realization and to pay interest at Rs.85,438/- from 17.08.2005 to 06.06.2009 and further interest on the defaulted payment of interest for the said period from the beginning of default i.e.06.06.2009 to till the date of payment by realization.

2. Heard Mr.S.Senthamil Selvan, learned counsel appearing for the petitioner and Mrs.T.Girija, learned Government Advocate appearing on behalf of the respondents, and perused the materials available on record.

3. The learned Counsel for the petitioner submits that the petitioner has filed C.M.A.No.5 of 2013 before the Special Tribunal for Co-operative Society Cases (in the court of Small Causes, Chennai) under Section 152 of the Tamil Nadu Co-operative Societies Act, 1983 read with Tamil Nadu Co-operative Societies Rules, 1988 praying, for setting aside the order dated 30.05.2013 in Thava No.880/2011-12, on the file of the Deputy Registrar of Co-operative Societies, Vellore. The petitioner has raised his contention that he has not availed any loan amounting to Rs.10,000/- and he availed a loan to the tune of Rs.16,000/- from the third respondent, and he repaid the said loan amount in two instalments and endorsement was also made on the back side of the acknowledgement-cum-receipt by the third respondent on 01.11.2001 to the effect that the balance loan account is "NIL", and therefore, the order passed by the second respondent is totally illegal and prays to set aside the order passed by the second respondent. In C.M.A.No.5 of 2013, the special Tribunal passed an order directing the 2nd respondent, to call for the records pertaining to order dated 30.05.2013, bearing Thava No.880/2011-12, but the second respondent has not submitted the records. Hence, the Tribunal remitted back the matter to the second respondent for fresh enquiry. Against the said order, the petitioner has filed the present Writ Petition before this Court.

4. On the Contrary, the learned Government Advocate would submit that the original records have been forwarded to the Commercial Crime Investigation Wing, where the case is now pending and therefore, the said documents could not be produced

before the Tribunal at the time of hearing. Now, it is submitted by the learned Government Advocate that the second respondent shall produce the original documents or certified copies of the documents at the time of hearing, before the Tribunal and therefore, if this court, in the event, remits the matter, back to the Tribunal, the second respondent will produce the records before the Tribunal.

5. In view of the above facts and circumstances, and by taking into consideration the above submissions made by the learned Government Advocate that the original documents or certified copies of the documents shall be produced by the second respondent at the time of hearing before the Tribunal, so that the Appellate Tribunal can dispose of the appeal and also taking into consideration the fact that the petitioner is a senior citizen, and also to meet the ends of justice. I have no hesitation to set aside the impugned order passed by the Tribunal and remand the matter back to the Tribunal to consider the appeal, in accordance with law, as expeditiously as possible after providing an opportunity of hearing to the parties concerned. The second respondent shall produce the original documents or certified copies of the documents as required by the Tribunal.

6. The Writ Petition is disposed of with the above directions. No costs.

s/d-

Assistant Registrar (CS-VIII)

True Copy

Sub-Assistant Registrar

jv/lok

To

1. The Registrar of Co-op Societies,
Kilpauk, Chennai-10
2. The Deputy Registrar,
Co-op Societies,
Thirupattur,
Vellore District

3. The Special Officer,
Velathur Primary Agriculture,
Co-op Bank, Gudiyatham,
Vellore District

4. The Special Tribunal
for Co op Society Cases
Court of Small causes
Chennai

+1 CC to M/s. S. Senthamil Selvan, Advocate sr 21622

+1 CC to Govt. Pleader sr 21726

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