

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 8.8.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.7635 of 2010

R.PONNUSAMY

S/O.RANGASAMY GOUNDER,

THOPPAMPALAYAM, KOTHUKADUTHOTTAM,

KARIVILLIPALAYAM POST,

SATHYAMANGALAM TALUK,

ERODE DISTRICT-638 402.

..PETITIONER

Vs.

1 THE JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES ERODE REGION,
THIRU NAGAR COLONY ERODE.

2 THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES,
PUDUPALAYAM GOBICHETTIPALAYAM CIRCLE,
ERODE DISTRICT

3 THE SPECIAL OFFICER
TR(L(C8 SATHYAMANGALAM PRIMARY
AGRICULTURAL AND RURAL DEVELOPMENT BANK
SATHYAMANGALAM ERODE DISTRICT-638 402.

..RESPONDENTS

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to discharge the petitioner from all the Agricultural Loan availed under Non farm Sector Loan as per G.O.Ms.No.70 Co-operation Food and Consumer Protection Department dt.13.5.2006 and to return the title documents deposited by the petitioner forthwith.

For Petitioner : Mr.R.N.Amarnath

For Respondents 1&2 : Mr.V.Selvaraj, A.G.P.

For Respondent No.3 : Mr.G.Sankaran

O R D E R

According to the petitioner, petitioner borrowed Farm-Sector loans from the third respondent society. Due to continuous drought in Erode district, there was no income from the agricultural lands and thus, loan amount could not be

repaid. In the meantime, the Government issued G.O. No.70, Co-op. Food and Consumer Protection Department, dated 13.5.2006 wherein the Government announced scheme to the agriculturist in the State for waiver of loan availed by them. The name of the petitioner has already been recommended for waiver of the loan amount availed by him, whereas the respondents have not settled the loan amount to the petitioner and the title documents deposited by the petitioner have not been returned to him. Subsequently, the petitioner came to know that the officials working in the third respondent Bank committed some irregularities in disbursement of the loan to various persons and enquiry under section 81 of the Tamilnadu Cooperative Society was contemplated. The respondent department also initiated criminal prosecution against the officials concerned for the irregularities committed by them. Therefore, the respondents refused to close the loan availed by the petitioner as per the Waiver Scheme ordered by the Government. The Investigation officer also issued No Objection certificate for return of title documents. But inspite of that the respondents have not returned the title deeds to the petitioner. Therefore, the petitioner has filed the present writ petition.

2 The learned Government Advocate would submit that the petitioner has not been implicated in the criminal case and if any representation is made to the first respondent, the same shall be considered in accordance with the Scheme announced by the Government vide G.O.Ms.No.70, dated 13.5.2006 and also subsequent G.O.Ms.No.96, dated 5.7.2006 for waiver of agriculture loan.

3 The learned counsel for the respondent Society would submit that so far the petitioner was not implicated in a criminal case nor any proceedings initiated by the third respondent Bank. In such circumstances, the petitioner has to approach the authorities concerned and the same shall be considered in accordance with law.

4 The grievance of the petitioner is that the respondent initiated enquiry under Section 81 of the Tamilnadu Cooperative Societies Act and report also has been filed against the officials of the third respondent Bank and subsequently Surcharge proceedings also has been initiated against the concerned officials of the third respondent Bank. Further, department also launched criminal prosecution against the concerned officials who are involved in the misappropriation of funds in the third respondent Bank for sanction of the loan to the farmers. The petitioner has nothing to do with the aforesaid irregularities committed by the officials. According to the petitioner, there is no justification to deny Waiver Scheme to the petitioner as announced by the Government as per G.O.Ms.No.70 Cooperative, Food and Consumer Protection Department, dated 13.5.2006. The aforesaid G.O. also not prohibiting or restraining the petitioner from availing Waiver

Scheme except the loan was sanctioned with falsification of records, the application for Waiver Scheme cannot be rejected. Except the aforesaid condition, no other condition was imposed in the Government order.

5 Therefore, in the interest of justice, the second respondent is directed to consider the petitioner's claim for granting waiver of the loan as announced by the Government in G.O.Ms.No.70, dated 13.5.2006 and pass appropriate orders on merit as expeditiously as possible preferably within a period of three months from the date of receipt of copy of this order.

The writ petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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- + 1 cc to Mr. Amarnath, Advocate SR.57783
- + 1 cc to Mr.G. Sankaran, Advocate Sr.57784
- + 1 cc to Government Pleader SR.57944

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VI (CO)
EU(19/09/2017)