

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.6.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.33003 of 2015 and 14349 to 14351 of 2017
and W.M.P.No.15568 to 15570 of 2017
and M.P.No.1 of 2015

G.Danabalan ... Petitioner in W.P.14349/2017
& W.P.33003/2015

D.Karthikeyan ... Petitioner in W.P.14350/2017

D.Sivasankaran ... Petitioner in W.P.14351/2017

Vs.

1.The President,
Primary Cooperative Agriculture &
Rural Development Ltd.,
Kudavasal, Nannilam Taluk,
Tiruvarur District - 612 601.

2.The Managing Director
Primary Coop. Agriculture & Rural
Development Ltd.
Kudavasal Nannilam Taluk
Tiruvarur District - 612 601.

... R1 & R2 in W.P.33003/2015 &
R3 in W.Ps.14349 to 14351/2017

3.The Deputy Registrar
Tamilnadu coop. State Agricultural & Rural
Development Bank
Dy. Registrar Office
Near Lakshmi Narayana Bank
Thiruvarur.

... R3 in W.P.33003/2015 &
R2 in W.Ps.14349 to 14351/2017

4.The Registrar of Cooperative
Societies
No.170 N.V.Natarajan Maaligai
Poonamallee High Road
Kilpauk Chennai-10.

... R4 in W.P.33003/2015 &
R1 in W.Ps.14349 to 14351/2017

5.The Secretary,
Co-operative Department,
Secretariate,
Fort St. George, Chennai 600 009.

... R5 in W.P.33003/2015

Prayer in W.P.No.14349 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari Mandamus, calling upon the proceedings of the 2nd respondent passed the impugned order Nos.CEP No.35/2012-2013 dated on 12.5.2017 for sale notice to the petitioner property situated comprised in Survey No.156/6 an extent of 0.28.5 Hectare Land along with Marriage Hall Water Service Station and buildings thereon at Kudavasal Village Nannilam Taluk Thiruvavarur District and quash the same as illegal and consequently direct the 1 to 3 respondents let the petitioner to avail the one time settlement scheme under the G.O.No.139 dated 17.12.2014 issued by the Chief Secretary of State Government for the reasons to wait till the final decision of the pending W.P.No.33003/2015 on the file of this Court.

Prayer in W.P.No.14350 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari Mandamus, calling upon the proceedings of the 2nd respondent passed the impugned order Nos.CEP No.37/2012-2013 dated on 12.5.2017 for sale notice to the petitioner property situates comprised in Survey No.167/17B an extent of 0.04.35 Hectare Land along residential house thereon at Kudavasal Village Nannilam Taluk Thiruvavarur District and quash the same as illegal and consequently direct the 1 to 3 respondents let the petitioner to avail the one time settlement scheme under the G.O.No.139 dated 17.12.2014 issued by the Chief Secretary of State Government for the reasons to wait till the final decision of the pending W.P.No.33003/2015 on the file of this Court.

Prayer in W.P.No.14351 of 2017 : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari Mandamus, calling upon the proceedings of the 2nd respondent passed the Impugned order Nos.CEP No.38/2012-2013 dated on 12.5.2017 for sale notice to the petitioner property situates comprised in Survey No.156/6 an extent of 0.28.5 Hectare Land along with Marriage Hall, Water Service Station and buildings thereon at Kudavasal Village, Nannilam Taluk, Thiruvavarur District and quash the same as illegal and consequently direct the 1 to 3 respondents let the petitioner to avail the one time settlement scheme under the G.O.No.139, dated 17.12.2014 issued by the Chief Secretary of State Government for the reasons to wait till the final decision of the pending W.P.No.33003 of 2015 on the file of this Court.

Prayer in W.P.No.33003 of 2015 : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, calling upon the proceedings of the 1st respondent passed the Impugned order dated on 25.09.2015 and rejected the petitioner representation dated 05.08.2015 for the proposal of one time settlement for the Loan Account Nos: NFS:54 91 105 & 117 with the 1st respondent bank and quash the same as illegal and consequently direct the 1 to 5 respondents let the petitioner to avail the one time settlement scheme under the G.O.No.139 dated 17.12.2014 issued by the Chief Secretary of State Government.

For Petitioner in all WPs. : Mr.C.Nithysh Sekhar

For Respondents 1 & 2 : Mr.T.Girija,
in all W.Ps. Government Advocate

For Respondent No.3 : Mr.L.P.Shanmugasundaram
in all W.Ps.

COMMON ORDER

As the facts and issue involved in all the above writ petitions are similar in nature, they are tagged together and are being disposed of by this common order. For the sake of brevity, the facts in W.P.No.14349 of 2017 is taken up for disposal.

2. By consent of both side counsel, the writ petitions itself have been taken up for final disposal.

3. According to the petitioner, petitioner availed Non Farm Sector loan from the first respondent bank namely Nos: NFS-91/2002 for Rs.15,00,000/-, NFS - 117/2002 for Rs.2,41,632/- and his son D.Sivasankaran has availed the following no farming sector loan Nos. NFS-54/1998 for Rs.1,47,351/- and NFS-105/2002 for Rs.2,71,830/- in the year 1998 and 2002 for construction of marriage hall and vehicle loan and the said properties were pledged with the first respondent bank. In this connection, criminal cases in C.C.No.126 and 127 of 2010 are pending before the Judicial Magistrate Court, Thiruvavur. In the meantime, Government has passed G.O.Ms.No. 139/2014 of Cooperative, Food and Consumer Protection department, dated 17.12.2014 for waiver of penal interest and one time settlement for Non farming scheme loans pending across the state Cooperative Bank. The aforesaid G.O. has been communicated to the third respondent. However, the representation of the petitioner was rejected on the ground that criminal case is pending against the petitioner. Hence, the petitioner has filed the writ petition before this Court.

4. The learned Government Advocate for the respondents filed counter affidavit before this Court. The counsel for the respondents submitted that following criminal cases are pending against the petitioner and his son Thiru D.Sivasankaran.

1 C.C.No.126 of 2010 before the Judicial Magistrate Court, Tiruvarur against D.Sivasankaran and two others for having tampering the original deed.

2 C.C.No.127 of 2010 before the Judicial Magistrate Court, Tiruvarur against D.Sivasankaran for having illegally cancelled the hire purchase entry in registered certificate of the Loan Trax van.

5. According to the learned Government Advocate for the respondents, the one time settlement scheme announced by the Government in G.O.Ms.No.139/2014 of Cooperative, Food and Consumer Protection department, dated 7.12.2014 has been extended in G.O.Ms.No.74, dated 16.5.2017 by extending the period upto 30.9.2017. It is clear from the fact that the period has been extended till 30.9.2017.

6. In the light of the above submission made by the counsel on either side, it is not the case of the respondent that there is bar under the G.O. to avail benefit under the Scheme as announced by the Government in the aforesaid G.O. Since there is no bar for granting benefit under the scheme against the persons whom criminal case has been registered, the respondent cannot deny benefit granted under the said Scheme for the reason stated above.

7. Therefore, this Court is inclined to direct the petitioners to make fresh representation before the third respondent in the light of the G.O.Ms.No.139/2014, dated 7.12.2014 and G.O.Ms.No.74, dated 16.5.2017 issued by the Cooperative, Food and Consumer Protection department. On receipt of such representations, the third respondent is directed to pass appropriate orders in accordance with law within a period of two weeks from the date of receipt of copy of this order.

8. Accordingly, all the writ petitions are disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The President,
Primary Cooperative Agriculture &
Rural Development Ltd.,
Kudavasal, Nannilam Taluk,
Tiruvarur District - 612 601.
- 2.The Managing Director
Primary Coop. Agriculture & Rural
Development Ltd.
Kudavasal Nannilam Taluk
Tiruvarur District - 612 601.
- 3.The Deputy Registrar
Tamilnadu coop. State Agricultral & Rural
Development Bank
Dy. Registrar Office
Near Lakshmi Narayana Bank
Thiruvarur.
- 4.The Registrar of Cooperative
Societies
No.170 N.V.Natarajan Maaligai
Poonamallee High Road
Kilpauk Chennai-10.
- 5.The Secretary,
Co-operative Department,
Secretariate,
Fort St. George, Chennai 600 009.

+2cc's to Mr.C.Nithyash Sekhar, Advocate, S.R.No.42028
+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.42149
+1cc to the Government Pleader, S.R.No.42536

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W.P.No.33003 of 2015
and
W.P.No.14349 to 14351 of 2017
and
W.M.P.No.15568 to 15570 of 2017

KJ(CO)
CA(10/07/2017)