

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.11.2017

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.27787 of 2013

and

M.P.No.1 of 2013

P.Shanmugam

..Petitioner

vs

1.The General Manager,
Metropolitan Transport Corporation,
Pallavan Illam, Pallavan Salai,
Chennai - 600 002.

2.The Special Officer,
Metropolitan Transport Corporation,
Employees Co-operative Savings and
Credit Society,
Chennai - 2.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring the act of the respondents by recovering the loan amounts which was availed by another person namely Mr.V.Rajendran, Driver D-51348 from the monthly salary of the petitioner as illegal and ultravires and consequently direct the respondents to refund the amount recovered from the petitioner monthly salary and further direct the respondent to initiate the civil proceeding against the loan availed person before the competent forum within a time frame.

For Petitioner : M/s.R.Y.George Williams

For Respondents: Mr.P.Kannan Kumar

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O R D E R

The relief sought for in this writ petition is for a declaration to declare the act of the respondents by recovering the loan amounts which was availed by another person namely V.Rajendran, Driver D-51348 from the monthly salary of the petitioner as illegal and ultravires and a consequential direction to direct the respondents to refund the amount recovered from the petitioner monthly salary and further to

direct the respondent to initiate the civil proceeding against the person who availed loan before the competent forum within a time frame.

2.The relief sought for in this writ petition in respect of the loan transaction of the writ petitioner and his colleague, one Mr.V.Rajendran in the Metropolitan Transport Corporation Employee's Co-operation Savings and Credit. The 2nd respondent is a Co-operative Society which is registered under the Tamil Nadu Co-operative Societies Act. The writ petitioner as well as the said Mr.V.Rajendran are the members of the 2nd respondent Cooperative Society, obtained loans and thereafter, due to the non-payment of the loan dues, the 2nd respondent has taken action to recover the dues from the 2nd respondent Society. In this regard, there was an undertaking by the guarantor also. However, all these transactions in respect of loan dues are to be adjudicated before the competent authorities under the provisions of the Tamil Nadu Co-operative Societies Act.

3.Section 90 of the Tamil Nadu Co-operative Societies Act provides Settlement of Disputes Further, Section 152 of the above said Act provides an Avenue for preferring an appeal. Thus, the facts set out in this writ petition is relating to the loan dues of the 2nd respondent Co-operative Society and therefore, it is left open to the writ petitioner to adjudicate the matter under the provisions of the Tamil Nadu Co-operative Societies Act.

4.This Court cannot entertain a writ petition in respect of loan transaction of a Co-operative Society. A writ against a Co-operative Society is not maintainable in view of the Judgment of the larger Bench of this Court in the case of K.Marappan Vs. The Deputy Registrar of Co-operative Societies and another, reported in 2006 (4) CTC 689. The writ petitioner has to approach the competent authorities under the provisions of the Tamil Nadu Co-operative Societies Act.

5.In this view of the matter, no further adjudication is required in this writ petition. Accordingly, the writ petition stands disposed of. However, there shall be no orders as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The General Manager,
Metropolitan Transport Corporation,
Pallavan Illam,
Chennai - 600 002.

2.The Special Officer,
Metropolitan Transport Corporation,
Employees Co-operative Savings and
Credit Society,
Chennai - 2.

+ 1 cc to M/s. R.Y. George williams, Advocate Sr.80478

+ 1 cc to M/s. P. Kannankumar, Advocate Sr.81073

W.P.No.27787 of 2013

PK(CO)
EU(11/12/2017)



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