

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 42501 of 2016
and
W.M.P No. 36395 of 2016

R. Suguna Petitioner

Vs.

1. The Assistant Registrar (Dairy)
Vellore - Thiruvannamalai District
Co-operative Societies
Sathuvaacheri,
Vellore - 632 009.
2. The Deputy Registrar of
Co-operative Societies
(Dairying)
Vellore - 632 009.
3. The General Manager
Vellore - Thiruvannamalai District
Co-operative Milk Producers Union
Ltd., Sathuvaacheri,
Vellore - 632 009. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the 1st respondent in Demand Notice dated 09.11.2016 issued under Section 67 II of Act No.30 of 1983, Madras pursuant to CEP 1/2014-15, SC.No.2/14-15 dated 10.06.2015 and quash the same and pass further orders.

For Petitioner :Mr. M. Sathyamoorthy

For Respondents :Mrs. T. Girija,
Govt. Advocate for R1 & R2

Mr. L.P. Shanmugasundaram
Spl. Govt. Pleader for R3

O R D E R

This Writ Petition has been filed seeking to quash the Demand Notice dated 09.11.2016 issued by the 1st respondent under Section 67 II of Act No.30 of 1983, Madras pursuant to CEP 1/2014-15, SC.No.2/14-15 dated 10.06.2015.

2. The petitioner is the wife of Late Rajamoorthy, who was working as "Thearvunilai Seyalar" in Vellore Milk Producing Union and retired on 31.10.2013. After retirement, his services were extended for one more year, on consolidated pay. The nature of work of the petitioner's husband was to meet milk booth agents in Vaniyambadi Area and collect amount from booth and deposit in Canara Bank and furnish the challan in Union Office. In the year 2014, Section 81 enquiry was conducted and it was found that a sum of Rs.54,39,289/- has been misappropriated by the petitioner's husband and 8 others. Based on the orders in surcharge proceedings, criminal prosecution was launched against 4 persons, along with the petitioner's husband. They were arrested and later released on bail. The petitioner's husband passed away on 24.01.2016. It is contended by the learned counsel for the petitioner that although all the persons were jointly and severely liable for the misappropriation of money, the other alleged persons filed W.P. No. 12772 of 2016, to avoid recovery. This Court by its order dated 28.04.2016, directed the respondents to verify the facts, by conducting an enquiry and to pass orders on the representation of the petitioners therein.

3. According to the petitioner, her husband, due to his ill-health, has requested another Milk booth agent Mrs. Kasthuri to collect the money and deposit in the Bank. But, she has entrusted the said work to her son-in-law Mr. Sudhakar, who without depositing the amount, had handed over false challans and bank seals, to the petitioner's husband. Thereby, the said Sudhakar had played fraud against the petitioner's husband. In the meanwhile, the petitioner's husband passed away. It is further submitted by the petitioner that her daughter is married and her only son is a challenged person. He is neither studying nor working, both of them are living in the subject property, which is an ancestral property. The bank accounts have been freezed, due to this alleged misappropriation. Under the above said circumstances, the 1st respondent issued the impugned Demand Notice for payment of Rs.56,14,077.50 against the petitioner and her children. Challenging the same, the petitioner has filed this writ petition before this Court.

4. Mr. L.P. Shanmugasundaram, the learned Special Government Pleader and Miss. T. Girija, learned Government Advocate appearing for respondents, would submit that the respondent has issued a demand notice for payment of Rs.56,14,077.50. If the petitioner is having any grievance, the petitioner can make a representation to the concerned authority and if such representation is made, the same shall be considered, as per law.

5. Heard the learned counsel for the parties and perused the material available on record.

6. In the light of the above facts, the petitioner is directed to submit her representation to the respondents along with a copy of this order, setting out all the issues, and if such representation is made, the respondents are directed to consider the same, and enquire the matter, as per the order of this Court passed in W.P. No. 12772 of 2016 on 28.04.2016, and thereafter, pass a speaking order on merits and in accordance with law. The above direction be complied with by the respondents, within a period of four weeks from the date on which representation is made by the petitioner. Till such time, the respondents shall not dispossess the petitioner from the subject property.

7. The Writ petition is dismissed, with the above direction. Consequently, the connected M.P is closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

avr
To

1. The Assistant Registrar (Dairy)
Vellore - Thiruvannamalai District
Co-operative Societies
Sathuvaacheri,
Vellore - 632 009.

2. The Deputy Registrar of
Co-operative Societies
(Dairying)
Vellore - 632 009.

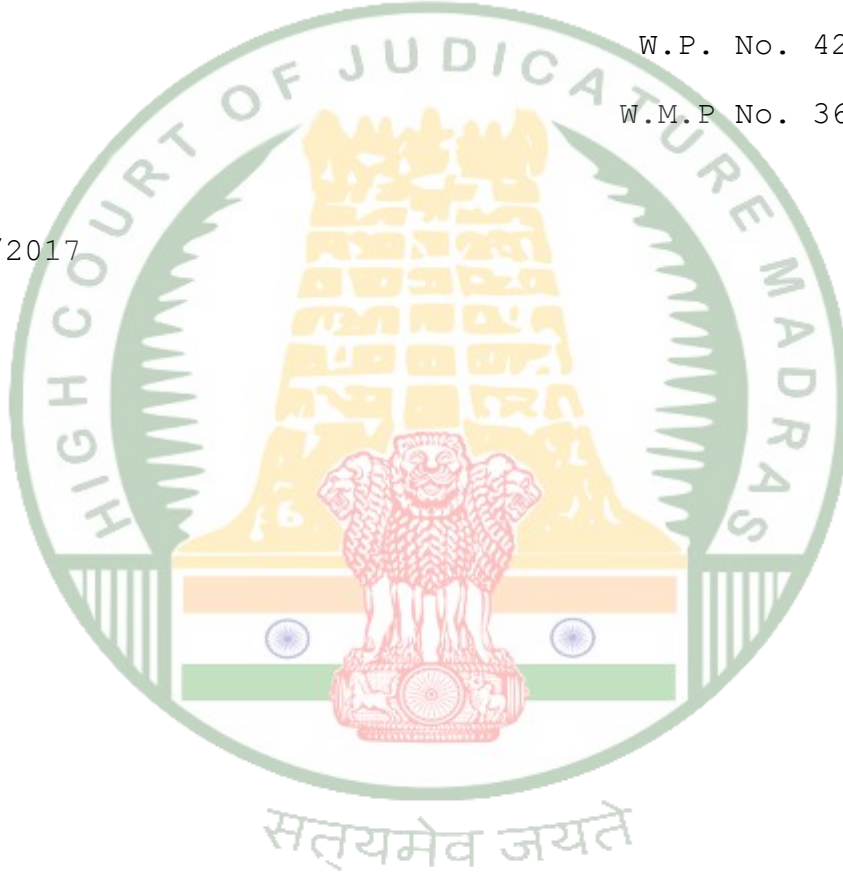
3. The General Manager
Vellore - Thiruvannamalai District
Co-operative Milk Producers Union
Ltd., Sathuvaacheri,
Vellore - 632 009.

+1cc to Mr.L.P.Shanmugasundaran, Advocate Sr.23873

+2cc to Mr.M.Sathyamoorthy, Advocate Sr.23900

W.P. No. 42501 of 2016
and
W.M.P No. 36395 of 2016

srg 18/07/2017



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