

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.03.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P. No. 43035 of 2016

and

W.M.P. Nos.36884 & 36885 and 38607 of 2016

P.Pari

... Petitioner

Versus

1. The Government of Tamil Nadu
Represented by its Secretary
Co-operation, Food and
Consumer Protection Department,
Secretariat,
Chennai - 600 009.
2. The Registrar of
Co-operative Societies
N V Natarajan Maaligai
170, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.
3. The Joint Registrar,
of Co-operative Societies
Dharmapuri Zone,
Dharmapuri District.
4. The Deputy Registrar
of Co-operative Societies
Dharmapuri Region
Dharmapuri District.
5. The Secretary
No.5335, Pappireddipatti Primary
Agricultural Co-operative Credit Society
Pappireddipatti Post
Dharmapuri District.
6. The Secretary
D.S.No.8, Subramania Siva
Co-operative Sugar Mill Ltd.
Gopalapuram Village,
Pappireddipatti Taluk,
Dharmapuri District

... Respondents

PRAYER: This Writ Peititon is filed under Article 226 of the Constitution of India to issue writ of Certiorarified Mandamus calling for the records pertaining to the order made in

Na.Ka.No.3575/2016/Tho.Sa.1, dated 10.09.2016 passed by the 4th respondent and subsequent order made in Na.Ka.No.4412/Tho.Sa dated 16.09.2016 passed by the 3rd respondent and quash the same and consequently directing 5th respondent to waive the crop loan availed by the petitioner in view of G.O.(Ms.) No.59, dated 28.06.2016.

For petitioner : Mr.A.Nagarathinam

For respondents : Mrs.T.Girija,
for RR1 to 4
Mr.L.P.Shanmugasundaram,
Special Government Pleader for RR5 & 6.

ORDER

The petitioner claims to be an agriculturist and is carrying on agricultural activities along with his father namely Perumal in the land comprised in S.Nos.243/12, 243/16, 244/1, 244/5A, 244/5B, 244/5C, 244/12A, 244/12B, 244/12C measuring totally about 7.90 acres of agricultural land situated at Adhikaripatti Village, Pappireddipatty Taluk, Dharmapuri District. Out of the above said land, the land comprising in S.Nos.243/12, 244/2, 244/3, 244/5, 244/6, 244/12, measuring about 3.86 acres was purchased by the petitioner's father by way of a registered Sale deed No.364 of 1985, dated 01.04.1985 and the remaining land in Survey Nos.243/16, 244/1 is ancestral property.

2. According to the petitioner, the Patta, Chitta and Adangal in respect of the aforesaid land stands in the name of his father. During the year 2015-16, Primary Agricultural Co-operative Credit societies provided short term and medium term loan to the farmers for carrying out agricultural and allied activities. The petitioner, who was a member of the society bearing membership No.4117, has also availed loan to the tune of Rs.1,80,000/- for cultivating sugarcane in the land bearing Nos.243/12, 243/16 and 244/1, measuring about 4 acres of land. The petitioner has also executed an agreement on 13.02.2016 with the 6th respondent for supplying the yield from such lands.

3. According to the petitioner, the Government issued G.O.Ms.No.50, dated 23.05.2016 and another G.O.Ms.No.59, dated 28.06.2016 ordering to waive the entire loan disbursed to small and marginal farmers and directed the Co-operative societies through out the State to extend the benefit of waiver to the agriculturist, who availed loan from the Society. According to the petitioner, he has cultivated sugarcane crops in the land measuring of 4 acres and therefore, he will come under the definition of marginal farmers and consequently he is entitled for benefit of waiver announced by the Government. However, the petitioner's claim for waiver has not been considered by the 5th respondent. The petitioner has also submitted a representation dated 29.08.2016 to the 4th respondent for waiving the crop loan availed by him. Such a representation of

the petitioner was rejected by the 4th respondent by Order dated 10.09.2016, on the ground that the petitioner is not entitled for the waiver scheme inasmuch as, he is owning more than 4 acres of land and consequently, he will not come within the purview of the waiver scheme announced by the Government. Challenging the said order dated 10.09.2016 and the consequential order dated 16.09.2016 passed by the 3rd respondent, the petitioner has come before this Court with this writ petition.

4. Learned counsel for the petitioner would contend that the petitioner has produced documentary evidence before the respondents to show that he is cultivating the lands along with this father and most of the lands stand in the name of his father namely Perumal. It is the specific contention of the learned counsel for the petitioner that the petitioner is owning only 4 acres of land, but without considering the same, the order of rejection has been passed.

5. Learned Government Pleader appearing for the respondents 1 to 4 as well as the learned Special Government Pleader appearing for the 5th & 6th respondents would submit that if the petitioner produce the documentary evidence to show that he is a marginal farmer, as ordered by the Government and he is in possession of only 4 acres of land in his name, his claim for waiver will be considered by the respondents.

6. Hence, in the light of the above submissions made by the learned counsel for the parties, I am inclined to set aside orders passed by the 3rd and 4th respondents and accordingly, they are set aside. The matter is remanded back to the 3rd respondent to consider the claim of the petitioner on merits and in accordance with law and pass appropriate orders thereon within a period of four weeks from the date of receipt of a copy of this order. It is open to the petitioner, as contended by the learned counsel for the petitioner, to submit additional documents to the 3rd respondent within a period of two weeks from the date of receipt of a copy of this order and if any such document is produced by the petitioner, the same shall also be considered by the third respondent while passing orders as directed above. If the petitioner fails to produce any additional documents, it is open to the third respondent to proceed further to recover the loan.

7. Accordingly, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar

/true copy/

To

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The Government of Tamil Nadu
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Consumer Protection Department,
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Co-operative Sugar Mill Ltd.
Gopalapuram Village,
Pappireddipatti Taluk,
Dharmapuri District

+1cc to M/s.A.Nagarathinam,Advocate sr.19060

+1cc to M/s.C.P.Shanmugasundaram,Advocate sr.19141

+1cc to Government Pleader sr.19534

WP No. 43035 of 2016

nrII(co)
ss(30/5/2017)