

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2017

CORAM :

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.44269 of 2016

N.Ramasamy

... Petitioner

Vs.

1. The Deputy Registrar
of Co-operative Societies,
Salem Circle,
Salem Central Co-operative Bank Campus,
Cherry Road, Salem - 636 001.

2. The SS No.39-Gajainaickenpatti
Primary Agricultural Co-operative Sangam Ltd.,
Rep. by its Secretary,
Gajelnaickkenpatti,
Salem - 636 201.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus, to call for the records of the second respondent two notices in respect of Agricultural Loan availed under KCC Loan for Rs.60,000/- vide Loan No.971 with interest of Rs.4800/- totalling a sum of Rs.64,800/-, dated ..10.2016 and Agricultural Jewel Loan Demand Notice dated 21.11.2016 vide Loan No.656, claiming Rs.38,000/- towards principle and interest at Rs.3010 totalling a sum of Rs.41,040/- in all a sum of Rs.1,09,940/- and to quash the same in terms of waiver notified for small farmers holding less than 5 acres vide G.O.Ms.No.59, Co-operation, Food and Consumer Protection (CC1) Department, dated 28.06.2016 and consequently, directing the second respondent to return the jewels pledged under Loan No.656 dated 02.12.2015.

For petitioner : Mr.V.Srinivasan

For respondents : Mr.L.P.Shanmughasundaram
Special Government Pleader
(Co-operative)

O R D E R

The petitioner Mr.N.Ramasamy has come to this Court praying for issuance of certiorarified mandamus, to call for the the records of the second respondent two notices in respect of Agricultural Loan availed under KCC Loan for Rs.60,000/- vide Loan No.971 with interest of Rs.4800/- totalling a sum of Rs.64,800/-, dated ..10.2016 and Agricultural Jewel Loan

Demand Notice dated 21.11.2016 vide Loan No.656, dated claiming Rs.38,000/- towards principle and interest at Rs.3010 totalling a sum of Rs.41,040/- in all a sum of Rs.1,09,940/- and to quash the same in terms of waiver notified for small farmers holding less than 5 acres vide G.O.Ms.No.59, Co-operation, Food and Consumer Protection (CC1) Department, dated 28.06.2016 and consequently, directing the second respondent to return the jewels pledged under Loan No.656 dated 02.12.2015.

2. It is the claim of the petitioner that he and his father purchased an extent of 5.03 acres of land in S.No.64/3 and 0.06 cents in S.No.64/2 in Document No.5847 / 1972 and 5848 / 1972, Gajelnaikenpatti, Salem District. His father died on 10.09.1992 leaving behind him and his two sisters as legal heirs. After the demise of his father, he is cultivating the entire extent of 5.03 acres and the profit on the produce is being shared among them on the total extent of land in both the survey number, namely 5.09 acres.

3. When the matter stood as above, vide registered sale deed, dated 22.11.2000, bearing Document No.4233 of 2000, the petitioner along with his two sisters jointly sold an extent of 1.05 1/2 cents in favour of one R.Saravanabavan from and out of extent of 5.03 acres in S.No.64/3. This transaction took place after the death of his father. Therefore, after the sale deed, the petitioner is in possession and enjoyment of the remaining extent of land, namely 3.97 1/2 cents in S.No.64/3 and 0.06 cents in S.No.64/2 in Gajjelnaickenpatti Village, Salem. Subsequently, the Revenue authorities have also issued patta, chitta and adangal certifying the petitioner's possession and enjoyment in Subdivided S.No.64/3A1 as 1.61.0 Hectares equivalent to 3.97 1/2 acres. Therefore, the petitioner's holding in both the S.Nos.64/3 and 64/2, namely 3.97 1/2 + 0.06 acres comes to 4.03 1/2 acres, which is well within the limit prescribed within the small farmer in Clause 3 of G.O.Ms.No.59, Cooperation, Food and Consumer Protection Department, dated 28.06.2016, in which the petitioner is entitled to get benefit of waiver of agricultural KCC Loan obtained on 02.12.2015 and agricultural jewel loan obtained on 24.11.2015 from the second respondent.

4. Learned counsel appearing for the petitioner would submit that when the petitioner is admittedly owning less than 5 acres of land, he would be entitled to get the benefit of loan waiver, but he had made application only on 14.09.2006. Therefore, the said application shall be directed to be considered by the respondents in terms of G.O.Ms.No.59, Cooperation, Food and consumer Protection Department, dated 28.06.2016.

5. Mr.L.P.Shanmughasundaram, learned Special Government Pleader (Co-operative) appearing for the respondents would submit that the petitioner himself has claimed that he is owner of lands having an extent of 5.03 acres and hence he cannot be brought under the categories of small farmer. Therefore, he is equally not entitled to the benefit of loan waiver given in G.O.Ms.No.59, dated 28.06.2016. Secondly if the petitioner is

entitled to get the benefit of loan waiver as contemplated under the above mentioned G.O, he should have made application for getting the benefit between 26.08.2016 to 02.09.2016. But he has given his application only on 14.09.2016. Therefore, on both the score, the petitioner is not entitled to get any relief. But this Court is not agreeing with the petitioner so far as the first point is concerned.

6. Although the petitioner has clearly admitted the possession of the land in both the S.Nos.64/3 and 64/2, which put together come to 5.03 acres, subsequently it appears after effecting the sale, as mentioned above, the petitioner is owning only 4.03 1/2 acres namely 3.97 1/2 acres in S.No.64/3 and 0.06 acres in S.No.64/2. Therefore, the petitioner has claimed that he is still a small farmer. However, since he has made application belatedly only on 14.09.2016, this Court condoning the said delay, directs the respondent to consider the case of the petitioner whether he is coming under G.O.Ms.No.59, Cooperation, Food and Consumer Protection Department, dated 28.06.2016 for the purpose of enjoying the benefit of loan waiver, in the light of Paragraph 7,8 and 9 of the Registrar's Circular, dated 01.07.2016 on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Registrar
of Co-operative Societies,
Salem Circle,
Salem Central Co-operative Bank Campus,
Cherry Road, Salem - 636 001.
2. The Secretary,
SS No.39-Gajainaickenpatti
Primary Agricultural Co-operative Sangam Ltd.,
Gajelnaickkenpatti, Salem - 636 201.

+1cc to Mr.L.P.Shanmughasundaram, Advocate, S.R.No.1514

+1cc to Mr.V.Srinivasan, Advocate, S.R.No.1436

+1cc to the Government Pleader, S.R.No.2106

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