



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Twenty Seventh day of April Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice T.S.SIVAGNANAM
and
The Hon`ble Mr.Justice P.VELMURUGAN

CMP(MD) No.2043 of 2017
AND CMP(MD)NO.8544 AND 12257 OF 2016
IN
WA(MD) No.1258 of 2016

A.S.CHINNASSHAMI

... PETITIONER/RESPONDENT NO.1
IN CMP(MD)NO.2043/2017 AND 12257/2016
IN WA(MD)NO.1258/2016
...1ST RESPONDENT IN CMP(MD)
NO.8544/2016 IN WA(MD)NO.1258/2016

Vs

1 THE PRESIDENT

M.D.SPECIAL 121, PASUKKARANPATTI,
PRIMARY AGRICULTURAL CO-OPERATIVE BANK LTD.,
BOOTHIPURAM POST,
USILAMPATTI TALUK,
MADURAI DISTRICT-625 532.

... RESPONDENT/APPELLANT
IN CMP(MD)NO.2043/2017 AND 12257/2016
IN WA(MD)NO.1258/2016
...1ST PETITIONER//APPELLANT
IN CMP(MD)NO.8544/2016 IN WA(MD)NO.1258/2016

2 THE REGISTRAR

CO-OPERATIVE SOCIETIES,
N.V.N.NATARAJAN MAALIGAI,
170, E.V.R.HIGH ROAD, KILPAUK,
CHENNAI-10.

3 THE REGIONAL JOINT REGISTRAR,

OFFICE OF THE REGIONAL JOINT
REGISTRAR OF CO-OP. SOCIETIES,
MADURAI REGION, MADURAI.

4 THE DEPUTY REGISTRAR

CO-OPERATIVE SOCIETIES,
USILAMPATTI CIRCLE,
AT PRESENT THIRUMANGALAM,
MADURAI DISTRICT.

... RESPONDENTS/RESPONDENTS
IN ALL THE PETITIONS



PRAYER IN CMP(MD)NO.2043/2017 IN WA(MD)NO.1258/2016 :

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a appropriate order, permitting petitioner to withdraw the total amount deposited by the appellant towards arrears of monthly subsistence allowance.

Prayer in CMP(MD). 8544/ 2016 IN WA(MD)NO.1258/2016 :

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an order of interim stay of operation of the order made in WP(MD) No.11480 of 2016 dated 3.08.2016 pending disposal of the above Writ Appeal

Prayer in CMP(MD). 12257/ 2016 IN WA(MD)NO.1258/2016 :

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an interim injunction restraining the 1st Respondent herein through the Enquiry Officer or anybody else from conducting Domestic enquiry for the Charge Memo dated 16.05.1996 which is countersigned by the Special Officer on 10.04.2002 relates to the transactions book place during the period 1992-1993 pending disposal of the above Writ Petition

Prayer in WP(MD). 11480/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents to pay the subsistence allowance for the period from 27.04.2011 to 16.06.2016 which comes to Rs.4,55,400/- immediately and also the monthly subsistence allowance regularly to the petitioner and further pay the arrears of the salary for the period from 2004 to 26.04.2011.

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of M/S.V.R.VENKATESAN, Advocate for the petitioner IN CMP(MD)NO.2043/2017 AND 12257/2016 IN WA(MD)NO.1258/2016 and 1st Respondent IN CMP(MD)NO.8544/2016 IN WA(MD)NO.1258/2016 and MR.R.R.KANNAN, Advocate for the Respondent No.1 IN CMP(MD)NO.2043/2017 AND 12257/2016 IN WA(MD)NO.1258/2016 and petitioner No.1 IN CMP(MD)NO.8544/2016 IN WA(MD)NO.1258/2016 and MR.R.VELMURUGAN, Government Advocate for the Respondents No.2 to 4 in all the petitions the court made the following order:-

[Order of the Court was made by T.S.SIVAGNANAM,J.]

C.M.P(MD)No.2043 of 2017 has been filed to withdraw the total amount deposited by the appellant towards arrears of subsistence allowance.



2. We have heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent/petitioner for a considerable length of time and we are fully convinced that the respondent/writ petitioner has been prolonging the Disciplinary Proceedings from the year 2011. Surcharge proceedings had been initiated which culminated in an order, against which, the writ petitioner filed C.M.A(CS).No.100028 of 2011 before the District Court, which was dismissed for default and it is stated that petition for restoration is pending.

3. The Writ appeal is against the order in the writ petition directing payment of subsistence allowance. The Writ Court recorded the concession of the learned Additional Government Pleader that the subsistence allowance would be paid in installments. However it is the appellant who has to pay the subsistence allowance and they were not heard in the matter.

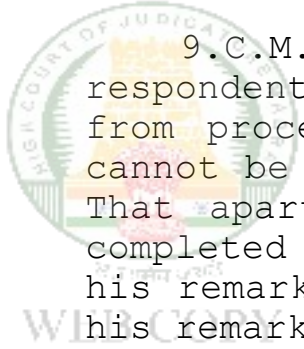
4. Nevertheless, the Court to secure the interest of writ petitioner directed the amount to be kept in deposit and accordingly, a sum of Rs.4,55,400/- is lying in deposit in Indian Bank, branch at Madurai Bench of Madras High Court. The respondent/writ petitioner seeks for withdrawal of the said amount.

5. From the typed-set of papers filed along with the appeal and the additional typed set of papers, we find that the respondent is a chronic litigant and several writ petitions have been filed probably with a view to stall the disciplinary proceedings initiated against him.

6. The contentions raised by the writ petitioner is that on account of non-payment of subsistence allowance, he could not face the departmental enquiry. This is denied by the counsel for the appellant. He would contend that the respondent is a rich patathar owning coconut thope, to an extent about 40 acres.

7. However, we do not propose to go into said contrary view, as of now, as we are of view that the respondent should be permitted to withdraw at-least a portion of the amount lying in deposit, without prejudice to the rights and contentions of the appellant.

8. Accordingly, C.M.P(MD)No.2043 of 2017 is disposed of by permitting the writ petitioner/respondent A.S.Chinnasshami to withdraw a sum of Rs.1,00,000/- from and out of the amount it is lying in deposit in the Indian Bank, Madurai Bench.



9.C.M.P(MD)No.12257 of 2016 has been filed by the respondent/writ petitioner to injunct the appellant society from proceeding with the departmental enquiry. Such a prayer cannot be granted, more so, in an appeal filed by the society. That apart, we are informed that already enquiry has been completed and report has been forwarded to the petitioner for his remarks on 07.01.2017 and writ petitioner has also given his remarks. Hence, this petition is dismissed.

10. Subject to the above condition, the order of interim stay passed in C.M.P(MD)No.8544 of 2016 is made absolute.

sd/-
27/04/2017

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AM
TO

- 1 THE REGISTRAR
CO-OPERATIVE SOCIETIES,
N.V.N.NATARAJAN MAALIGAI,
170, E.V.R.HIGH ROAD, KILPAUK,
CHENNAI-10.
- 2 THE REGIONAL JOINT REGISTRAR,
OFFICE OF THE REGIONAL JOINT
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- 3 THE DEPUTY REGISTRAR
CO-OPERATIVE SOCIETIES,
USILAMPATTI CIRCLE,
AT PRESENT THIRUMANGALAM,
MADURAI DISTRICT.

+2. C.C. to M/S.R.R.KANNAN Advocate SR.No.21499, 21500
+1cc to Mr.V.R.Venkatesan, Advocate SR.No.21421

GJM/BS/SAR-4-5.5.17-4P-7C

ORDER
IN
CMP(MD) No.2043 of 2017
AND CMP(MD)NO.8544 AND 12257 OF 2016
IN
WA(MD) No.1258 of 2016
Date :27/04/2017