



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) No.853 of 2015

and

M.P. (MD) No.1 of 2015

The Branch Manager,
Central Bank of India,
Ambasamudram Branch,
Main Road, Ambasamudram
Tirunelveli District.

... Appellant

Vs.

1.A.Chockalingam

2. Mr.Mathana Gopal,
Branch Manager,
Central Bank of India,
Ambasamudram Branch,
Main Road, Ambasamudram,
Tirunelveli District.

... Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act, against the final order dated 31.03.2015 passed in W.P.(MD) No.5315 of 2009, by this Court.

Prayer in WP(MD). 5315/ 2009 :

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 return the illegal collection of loan amounts to a sum of Rs.11,540/- paid in "GL AGRI No.61/1150" on 30.1.2009 and a sum of Rs.27,375/- paid in "GL AGRI No.61/1404" on 11.2.09, totalling Rs.38,915/- to the petitioner.

For Appellant: Mr.B.Rajesh Sarvanan

For R1 : Mr.H.Arumugam

J U D G M E N T

[Judgment of the Court was delivered by **M.M.SUNDRESH, J.**]

This writ appeal is directed against the order of the learned Single Judge, who after taking note of the two certificates produced by the writ petitioner, dated 23.07.2008, was pleased to



direct the appellant to repay a sum of Rs.38,915/- which was demanded.

2. The learned counsel appearing for the appellant would submit that the Scheme would not be applicable to the first respondent/writ petitioner.

3. This Court is not willing to accept the said submission. Admittedly, two certificates have been issued by the appellant. Till now the certificates have not been withdrawn. Therefore, the benefit of the Scheme has not been extended in favour of the first respondent/writ petitioner.

4. In such view of the matter, demanding a sum of Rs.38,915/- contrary to the aforesaid certificates issued by the appellant relying upon the Scheme cannot be sustained in the eye of law. Furthermore, the writ petition was filed in the year 2009. The learned single Judge taking note of the fact that till the date of passing the order, no counter affidavit has been filed by the appellant denying the averments made in the writ petition. Therefore, the very maintainability of the writ appeal itself is in question as the averments made in the affidavit filed in support of the writ petition were not denied and in such view of the matter, we are not inclined to interfere with the order passed by the learned single Judge, especially in the light of the two certificates issued by the appellant, dated 23.07.2008. Accordingly, the Writ Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To
Mr.Mathana Gopal,
Branch Manager,
Central Bank of India,
Ambasamudram Branch,
Main Road, Ambasamudram,
Tirunelveli District.

+1 cc to Mr.B.Rajesh Saravanan , Advocate in SR.No. 72778
+1 cc to Mr.H.Arumugam , Advocate in SR.No. 72519

akv/cp
AE/MR KKR/SAR1/08.09.2017/2P/4C