



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2017

CORAM:

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.(MD) No.466 of 2017
and
C.M.P.(MD) No.4177 of 2017

R.Baby

... Appellant

-vs-

- 1.The Joint Registrar (Co-operative Societies)
Thanjavur Zone
Thanjavur
- 2.The Deputy Registrar (Co-operative Societies)
Kumbakonam
Thanjavur District
- 3.The Secretary
Z-805 Koonancheri Primary Agricultural Co-op.
Credit Society
Koonancheri, Thirumandangudi Post
Thanjavur District
PIN 612 301
- 4.The Manager
Thiru Arooran Sugar Factory
Thirumandangudi
Thirumandangudi Post
Papanasam Taluk
Thanjavur District
PIN 612 301
- 5.Smt.Seethalakshmi
Former VAO of No.24 Umayalpuram-II
Papanasam Taluk
Thanjavur District

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent, to set
aside the order dated 22.02.2017 in W.P.(MD).No.3071 of 2017, on
the file of this Court.



Prayer in WP(MD)No.3071/2017:-

Writ Petition is 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 1st respondents impugned order Na.Ka.No 5729/2016 THo.Ve.Koo.Ka.Sa. Naal. 01.02.2017 and quash the same and direct the 1st respondent to direct the 3rd respondent to incorporate petitioner's name in the beneficiary list in waiver of loan as small farmer for the year 2015-2016 and to grant benefit by considering petitioner's representation dated 7.11.2016 within the period as stipulated by this Hon'ble Court.

For Appellant : Mr.A.Haja Mohideen

For Respondents : Mr.V.Muruganantham
Additional Government Pleader for R1 and R2
No appearance for R3 to R5

J U D G M E N T

[Judgment of the Court by T.S.SIVAGNANAM, J.]

Heard Mr.A.Haja Mohideen, learned counsel appearing for the appellant and Mr.V.Muruganantham, learned Additional Government Pleader appearing for the respondents 1 and 2 and perused the materials placed on record.

2. This writ appeal by the writ petitioner is directed against the order, dated 22.02.2017, in W.P.(MD).No.3071 of 2017, which was filed challenging the order of the first respondent, dated 01.02.2017, whereby and whereunder, the appellant was denied the benefits of the G.O (Ms) No. 59, Cooperation, Food and Consumer Protection, (CC1) Department, dated 28.06.2016, by which the Government granted waiver of agricultural loans extended by the Cooperative Societies subject to certain conditions.

3. The appellant's case is that she is a small farmer owning less than 5 Acres of land and therefore, she is entitled to the benefit of G.O (Ms) No.59, dated 28.06.2016.

4. The authority found that the appellant owns 5.90 Acres of land and therefore, she would not come under the category of small farmer.

5. The appellant's case rests upon a Certificate issued by the Village Administrative Officer, dated 06.04.2015. However, what is required to be seen is proper revenue records showing the total extent of the land standing in the name of the appellant on the date when she applied for loan before the respondent - Society. There may be cases, where borrowers would have shown lesser extent of land, at the time of availing loan. Even assuming that loan was extended, that itself will not confer benefit on the borrower ~~Source: www.mca211.in/hcscases~~ the conditions stipulated in the Government Order are very specific. For better reference, the same is extracted hereunder:



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"3.The classification of farmers as small and marginal farmers for the purpose of the scheme would be the same as recorded in the landholding register and loan register at the time of sanction of agricultural loan. It is reiterated that 'small farmer' means those farmers having total landholding of size ranging from 2.5 acres to 5 acres and 'marginal farmer' means those farmers with landholding of up to 2.5 acres."

6. In terms of the above condition, to fall within the definition of "Small Farmer", the landholding range is from 2.5 Acres to 5 Acres. The appellant's case is that there was a double entry in the Patta and what is under cultivation is 4.90 Acres. However, the Writ Court cannot decide such an issue. As per the revenue records, the total extent of land is 5.90 Acres. Therefore, unless and until the appellant satisfies the authority of the Cooperative Society that the total landholding is within the limit prescribed under the Government Order, the benefit of waiver will not accrue in her favour. Therefore, the view taken by the learned Single Judge on the given facts is perfectly valid. Hence, we have no hesitation to uphold the order passed by the Writ Court. However, if the appellant is having any revenue record to establish that her landholding was less than 5 Acres on the date when she applied for loan, then it is open to her to approach the second respondent by way of appropriate representation, which shall be considered by the second respondent in accordance with law.

7. The writ appeal is disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To:

1.The Joint Registrar (Co-operative Societies),
Thanjavur Zone, Thanjavur.

2.The Deputy Registrar (Co-operative Societies),
Kumbakonam, Thanjavur District.

+One cc to The Special Government Pleader, SR.No.59898
ia/krk

RL/4C/3P/RSK/SAR3/21/6/2017

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and

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12.06.2017