IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2018

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.12364 of 2006
And
W.P.M.P.No.13970 of 2006

C.Ganesan ... Petitioner

Vs.

1.The Secretary Perambur Primary
Agriculture Co-operative Bank,
Perambur, Kolathur (Tk)
Pudukottai District.

2.Deputy Registrar of Co-operative
Societies, Pudukottai Circle,
Marthandapuram,
Pudukottai 622 001.

3.Deputy Registrar of Co-operative
Societies, (Non-Credit)
48, L.B.Road
Adayar, Chennai 20. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the impugned order No.D.O.Letter 6409/04 Sa.Ba. Dated 25.10.2005 on the file of the 2nd respondent herein, the Deputy Registrar of Co-operative Societies Pudukottai and quash the same.

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For Petitioner : Mr.K.V.Ananthakrushnan
For Respondents : Mr.R.Chandrasekaran for R1
Mr.L.P.Shanmugasundaram for R2 and R3
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records relating to the impugned order No.D.O.Letter 6409/04 Sa.Ba. dated 25.10.2005 on the file of the second respondent and to quash the same.

2.The case of the petitioner is that the petitioner was appointed as Junior Inspector under 10 (a) (1) of the Government Rules in the office of the Deputy Registrar of Co-operative Societies, Pudukottai on 15.12.1985 and deputed as Special Officer to Neerpalani Primary Agriculture Co-operative Bank, Perambur Primary Agriculture Co-operative Bank and Maruthampatti Primary Agriculture Co-op. Bank between 01.11.1987 and 24.08.1989. After acquiring necessary qualification, the petitioner was appointed as Junior Inspector of Co-operative Societies in the office of the Deputy Registrar of Co-operative Societies, Pudukottai (Public Distribution System). Thereafter, the petitioner was transferred to various places and while he was working as Section Assistant in the office of the Deputy Registrar of Co-operative Societies (Credit), Adayar, Chennai, on

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24.12.1993, he was discharged from service. Hence, the petitioner approached the Tamilnadu Administrative Tribunal and obtained stay of the said order.

3.Whileso, vide proceedings dated 17.03.2005, the third respondent informed the petitioner that as per the orders of the second respondent, his salary was directed to be attached to an extent of Rs.1000/- per month. However, no amount was deducted from the petitioner's salary. Thereafter, the petitioner received a letter dated 27.01.2006 from the third respondent stating that as per the order dated 14.02.2005, a sum of Rs.1000/- will be deducted from his salary towards recovery. On receipt of the said letter/ notice, the petitioner by his letter dated 29.03.2006 requested the details regarding the reason for order of attachment of his salary.

4.Thereafter, the third respondent by letter dated 31.03.2006, enclosed the copy of the impugned proceedings dated 25.10.2005 of the Deputy Registrar of Co-operative Societies, Pudukottai directing the third respondent to recover a sum of Rs.1000/- from his salary and remit the same to them. On verification, the petitioner came to know that when he was in employment with Perambur Primary Agriculture co-operative Bank during the period 1987-89, a surcharge proceeding

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was initiated under Section 87 of the Tamil Nadu Co-operative Societies Act for recovery of a sum of Rs.17,617.25. The Deputy Registrar of Co-operative Societies, Pudukottai passed an award dated 30.09.1991 against the petitioner for a sum of Rs.17,617.25 with interest. Before the surcharge proceedings and after the award, a sum of Rs.9500.25 was paid. If the said amount was given credit to, a sum of Rs.8117.00 alone was payable.

5.Hence, the petitioner preferred an appeal before the Co-operative Tribunal, Madurai, in C.M.A.No.142 of 1992 and the same was dismissed on 19.01.1993 for non-prosecution. Hence, the award dated 30.09.1991 passed by the Deputy Registrar of Co-operative Societies, Pudukottai, became final. Thereafter, the impugned order was passed. From the impugned order, the petitioner found a reference that an Execution Petition in E.P.No.293 of 2004 has been filed but the petitioner was not served with any notice in the execution proceedings. Hence, the petitioner has come forward with this petition seeking to quash the impugned order.

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6.The learned counsel appearing for the petitioner would submit that the C.M.A. filed by the petitioner in C.M.A.No.142 of 1992 was dismissed for non-prosecution on 19.01.1993. Thereafter, the alleged

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execution proceedings which was initiated by the respondents was not intimated to the petitioner and the execution proceedings was initiated behind the back of the petitioner. Further, the impugned order has been passed after 12 years which is not sustainable and there is no proper explanation for the huge delay. Hence, the impugned order is unsustainable one.

7.The learned Special Government Pleader appearing for the respondents 2 and 3 would submit that the award was passed in the year 1991. Aggrieved by the same, the petitioner filed appeal in C.M.A.No.142 of 1992 and the said award was dismissed for non prosecution on 19.01.1993. Thereafter, since the petitioner paid only 50% of the amount, the impugned order was passed well within the period of twelve years. Hence, the impugned order is sustainable in law. Accordingly, he prayed for dismissal of the writ petition.

8.Heard both sides.

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9.Admittedly, the award dated 30.09.1991 was challenged by the petitioner in C.M.A.No.142 of 1992 and the same was dismissed for non prosecution on 19.01.1993. Thereafter, after following due process of law, the execution proceedings was filed before appropriate

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Court and thereafter, this impugned order was passed. The proceedings initiated by the respondents is well within the period of 12 years. Further, no material showing valid reason has been placed before this Court for quashing the impugned order. In the absence of any material, I do not find any error in the impugned order passed by the second respondent. Hence, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

16.04.2018

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Speaking Order/ Non Speaking Order

Index: Yes/ No
Internet: Yes/ No

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M.DHANDAPANI,J.
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