

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:25.01.2018

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

WA.No.1088/2016 & CMP.No.14118/2016

The President

Killyanur Primary Agricultural Cooperative
Credit Society, Killiyanur Village and Post
Vanur Taluk, Villupuram District.

Appellant /
2nd Respondent

vs.

1.B.Indhira .. 1st Respondent / Writ Petitioner

2.The Joint Registrar of Cooperative Societies
Villupuram Region, Villupuram. ... 2nd Respondent /
1st Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent
Act against the order dated 30.06.2015 in WP.No.16746/2015.

Prayer in WP.No.16746/2015 filed under Art 226 of Constitution
of India praying for the issuance of a writ of mandamus
directing the respondents to disburse the petitioners husbands
death cum retirement benefits like Gratuity Provident Fund
and Unearned Leave Salary as per U/s.78 and 79 of Tamil Nadu
Co.Op. Societies Act.

For Appellant .. Mr.D.Bharatha Chakravarthy for
M/s.Sai, Bharath and Ilan

For R1 .. Ms.R.Hemalatha for
Mr.C.Prakasam

For R2 .. Ms.T.Girija, GA

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The order, directing the appellant to disburse the
Gratuity, Provident Fund and Unearned Leave Salary due to the
husband of the 1st respondent herein, who was an employee of
the Society in question, is under challenge in this appeal.

2 The 1st respondent filed a writ petition before the Writ Court, claiming disbursement of the Gratuity, Provident Fund and Unearned Leave Salary due to her husband. The writ petition was allowed by the learned Single Judge during the time of admission.

3 The learned counsel for the appellant contended that the main business of the Appellant - Society is to grant loan to the members and the Society is functioning with the interest collected from the borrowers. According to the learned counsel, the Government waived the loan granted to the agriculturists and as such, absolutely, there is no income to the Society either for paying salary or for disbursement of benefits to the employees who worked earlier. The learned counsel further submitted that the appellant is prepared to pay the money, provided necessary permission is given by the Registrar of Cooperative Societies to raise the funds.

4 We have also heard the learned counsel appearing for the 1st respondent and the learned Government Advocate appearing for the 2nd respondent.

5 There is no dispute that the appellant-Society is liable to pay Gratuity, Provident Fund and Unearned Leave Salary to the husband of the 1st respondent. According to the Society, on account of the Waiver Scheme announced by the Government, there is absolutely no business and it is in a financial stringency and the same resulted in the delay in disbursing the statutory benefits to the 1st respondent.

6 The factual position regarding financial condition of the Society is not in dispute. The appellant should be in possession of funds for disbursement. According to the appellant, it was only on account of the Policy decision taken by the Government to waive the loan given to the agriculturists, the Society is put into financial difficulty. Such being the factual position, we are of the view that interest of justice would be sub-served by directing the Registrar of Societies to permit the appellant to raise funds from the available sources so as to enable it to pay statutory dues to the 1st respondent.

7 We therefore, direct the Registrar of Cooperative Societies and the 2nd respondent herein to permit the appellant-Society to raise necessary funds for the purpose of disbursing the Gratuity, Provident Fund and Unearned Leave salary due to the husband of the 1st respondent pursuant to the order dated 30.06.2015 in WP.No.16746/2015. In case, applications to that effect is made by the appellant, the same shall be considered and disposed of by the concerned Registrar, taking into account the above observation within a period of two months thereafter.

8 The Intra-Court appeal is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

AP

To

1.The President
Killyanur Primary Agricultural Cooperative
Credit Society, Killiyanur Village and Post
Vanur Taluk, Villupuram District.

2.The Joint Registrar of Cooperative Societies
Villupuram Region, Villupuram.

+lcc to Mr.C.Prakasam, Advocate Sr.No.6357

+lcc to M/s.Sai Bharath & Ilan, Sr.No.6422

+lcc to Government Pleader Sr.No.6236

KJI(CO)

sm:9.2.2018

WA.No.1088/2016

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