



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.5379 of 2011

K.Subburathinam

... Petitioner

-vs-

1.The Joint Registrar of Co-op Societies,
Karur Region, 55 Additional Building,
Collectorate, Thanthonimalai,
Karur-639 007.

2.The Deputy Registrar of Co-operative Societies,
Karur Circle, 98, Sengunthapuram,
8th Cross, Karur-639 001.

3.No.YK.124 Karur Primary Co-operative Agricultural &
Rural Development Bank Ltd.,
rep. By its Special Officer,
No.48/A/5C, Opp. Panchayat Union Office,
Thanthonimalai,
Karur-639 005.

... Respondents

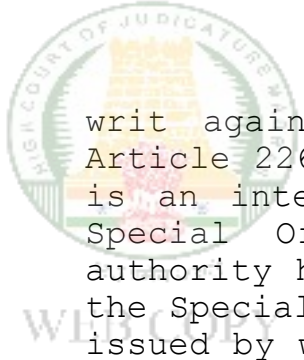
Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned orders of recovery passed by the first respondent in her proceedings Na.Ka.1287/08 Na.Va(1) dated 05.05.2010 along with the orders passed by the third respondent, dated 13.05.2010 withholding the amount for further years and quash the same and consequently, direct the respondent to refund the amount of Rs.43,211/- recovered already and continue to pay the amount in accordance with Regulations for further years from 2007-2008 onwards.

For Petitioner	: Mr.P.Subbaraj
For R1 & R2	: Mr.R.Sethuraman Spl. Govt. Pleader
For R3	: Mr.R.Anandharaj

O R D E R

The order of recovery issued by the first respondent vide proceedings, dated 05.05.2010 and the consequential order passed by the third respondent vide proceedings, dated 13.05.2010 are under challenge in this writ petition.

2.The writ petitioner was working as Secretary, In-charge of Karur Primary Co-operative Agricultural & Rural Development Bank Ltd., which is registered under the provisions of Tamil Nadu Co-operative Societies Act (herein after referred as The Act). The



writ against the Co-operative Society is not maintainable under Article 226 of the Constitution of India. The first impugned order is an internal communication between the Joint Registrar and the Special Officer. The Joint Registrar being the controlling authority has issued a direction under the provisions of the Act to the Special Officer to effect recovery. Therefore, such a direction issued by way of an internal order cannot be challenged by the writ petitioner and the same would not constitute any cause of action. Secondly, the impugned order of recovery pursuant to the order of first respondent was issued on 05.05.2010 by the Special Officer of the Co-operative Society. Thus, the writ petitioner is bound to challenge the said order of recovery imposed by the Special Officer of the third respondent Society. In respect of the order passed by the third respondent, no writ can be entertained in view of the fact that the Co-operative Society registered under the Act is not a State within the meaning of Article 12 of the Constitution of India in view of the legal principles settled by the Larger Bench of this Court in *Marappan v. The Deputy Registrar of Co-operative Societies, Namakkal* reported in 2006(4) CTC 689.

3.The remedy lies, to the employees of the Co-operative Societies, before the competent authority under the provisions of the said Act itself. More specifically, a revision is to be preferred under Section 153 of the Tamil Nadu Co-operative Societies Act. In normal circumstances, the power of the Registrar is delegated to the Joint Registrar by way of notification issued under the Act. However, in the present case, a direction under the Act was issued by the Joint Registrar Co-operative Society to the Special Officer. Thus, the revision has to be preferred before the Registrar Co-operative Society under the said Act.

4.Thus, the writ petitioner is permitted to submit the revision petition under Section 153 of the Tamil Nadu Co-operative Societies Act to the Registrar of Co-operative Societies, Chennai and on receipt of the same, the Registrar has to adjudicate the same in accordance with the provisions of the Act and take a decision and pass orders on merits and in accordance with law.

5.In these view of the matter, no further adjudication is required and accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

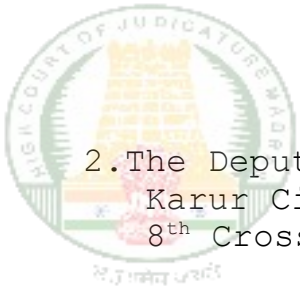
Assistant Registrar(CS-III)

/True copy/

Sub Assistant Registrar

To

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Karur-639 005.

+1cc to Mr.P.SUBBARAJ,Advocate,SR. 43454

+1cc to M/S.Special Government Pleader,SR. 44326

W.P. (MD) No.5379 of 2011
23.01.2018

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KK/JC/SAR 2/08.02.2018/ 3P- 6C/