

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.07.2019

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No11310 of 2011

and M.P.No.1 of 2011

K.S. Jailaane

... Petitioner

.vs.

1. State of Tamil Nadu
represented by
Secretary to Government,
(Agriculture),
Fort.St.George,
Chennai.
2. State of Tamil Nadu
represented by
Secretary to Government,
(Cooperation, Food and Consumer
Protection Department),
Fort St. George, Chennai.
3. Chidambaram Cooperative Primary
Agricultural & Rural Development Bank,
by its Regional Manager,
Villupuram.
4. Chidambaram Cooperative Primary Development
Bank,
by its Secretary, Having Office at
No.161, First Main Road,
Kanakasabai Nagar, Chidambaram,
Cuddalore District
5. Chidambaram Cooperative Primary
Agricultural & Rural Development Bank,
represented by its Special Officer,
No.1, 2nd Main Road, Kanakasabai Nagar,
Chidambaram, Cuddalore District

..Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records and quash the order dated 09.03.2011 passed by the 5th respondent and consequently direct

the respondents to hold that the loan obtained by the petitioner on 31.03.1999 stands discharged as per G.O.Ms.No.70 Co-operation, Food and Consumer Protection (CCI) Department dated 13.05.2006.

For Petitioner : Mr.R. Gururaj

For R.1 to R.3 : Ms. T. Girija
Government Advocate

For R.4 & R.5 : Mr.L.P. Shanmugasundaram
Spl. Government Pleader

ORDER

The case of the petitioner is that that the petitioner is owning lands in Punjaimagathuvaazhkkai village near Parangipettai in Chidambaram Taluk at Cuddalore District. On 31.03.1999, the petitioner borrowed money from the Chidambaram Cooperative Primary Development Bank/fourth respondent herein and executed a registered Simple Mortgage deed in favour of the fourth respondent. The petitioner has also given his agricultural lands totalling 11 acres and 14 cents as security for the loan. The loan has to be repaid in five years together with interest at 17% p.a and the fourth respondent fixed a monthly instalment of Rs.10,045/- together with interest, in default, penal interest of 20% will be charged. Loan was obtained for purchase of Tractor, Cultivator and Leveller (front dousing) and the alleged equipments are for agricultural purpose only and loan was granted by the fourth respondent.

2. While doing so, the Government announced G.O.Ms.No.70 Cooperation, Food & Consumer Protection (CCI) Department dated 13.05.2006. As per the Government Order, the loans alive as on 31.03.2006 by the agriculturists or lent for agricultural purposes shall stand fully discharged. According to the petitioner, he made an application for availing the said benefit, however, the fifth respondent rejected the request made by the petitioner, against which, the present writ petition is filed.

3. Learned counsel for the petitioner submits that the petitioner purchased Tractor by availing loan from the Chidambaram Cooperative Primary Development Bank/fourth respondent herein and considering the difficulty faced by the farmers, the Government of Tamil Nadu decided to waive the loan by issuing a Government Order in G.O.Ms.No.70 Cooperation, Food & Consumer Protection (CCI) Department dated 13.05.2006 by fixing the cut off date as 31.03.2006.

4. In the present case, the petitioner used to pay instalments without any default, but due to crisis, he is not able to pay the loan amount. Accordingly, the petitioner made an application for availing the said benefit, however, the fifth respondent rejected the request by order dated 09.03.2011 on the ground that the petitioner's loan belongs to ' Non-Farming Sector Category '. Aggrieved by the order, the petitioner filed the present writ petition.

5. The respondents filed counter and in the counter, it is averred that the writ petition is not maintainable as per the judgment in a batch of writ petitions in W.P.Nos.18445 to 18450 of 2012 and 18753 to 18757 of 2012 dated 19.07.2012, raising on the same set of facts and this Court dismissed the batch of writ petitions.

6. It is true that the petitioner had availed loan under 'Non-Farming Sector' category on 31.03.1999 and had executed a registered Simple Mortgage in favour of 4th respondent and had given his lands totalling 11 acres and 14 cents as security for the loan. Accordingly, loan was granted for a sum of Rs.4,35,000/- for the purpose of purchasing a Tractor.

7. However, the instalments have not been paid in time. Therefore, the petitioner has to pay normal interest of 17% plus penal interest of 3% i.e., toally 20% per annum. The petitioner paid Rs.44,000/-towards down payment and hence the balance loan amount, to be repaid is Rs.3,01,000/-. The Government Order issued in G.O.Ms.No.70 Co-operation, Food & Consumer Protection (CCI) Department dated 13.05.2006 is applicable only to the "Farming Sector" and for "Non Farming Sector" there is a Government Order in G.O.No.(2D)No.77 of Co-operation Food and Consumer Protection Department (CCI) dated 22.07.2009 and the documents relied are not applicable to the present case and hence the respondents pray for dismissal of the writ petition.

8. On perusal of the records, it seems that the petitioner obtained a loan from the fourth respondent for purchase of Tractor to the tune of Rs.4,35,000/-. It appears that the petitioner paid a sum of Rs.44,000/-. However, the issue involves in the present case is that whether the petitioner is entitled to benefit of G.O.Ms.No.70 Co-operation, Food and Consumer Protection (CCI) Department dated 13.05.2006.

9. It appears that there are two Government Orders for extending the benefits to the farmers viz., "Farming Sector" and "Non Farming Sector" and G.O.Ms.No.70 Co-operation, Food and Consumer Protection (CCI) Department dated 13.05.2006 is applicable to "Farming Sector" and G.O.No.(2D)No.77 of Co-

operation Food and Consumer Protection Department (CCI) dated 22.07.2009 is applicable to "Non Farming Sector".

10. In the present case, initially opportunity was given to the petitioner under Interest Waiving Scheme and after waiving the interest, the petitioner was directed to pay a sum of Rs.6,32,306/-, but the petitioner has not availed the benefits even today. In order to give benefit to the "Non Farming Sector", the Government issued G.O.Ms.No.174 dated 31.12.2018 for one time settlement and even today, the petitioner can avail the benefit.

11. The learned counsel for the petitioner would submit that without going into the merits of the case, the petitioner may be permitted to approach the respondents for availing the benefit under G.O.Ms.No. 174 dated 31.12.2018.

12. In view of the limited relief sought for by the petitioner, this Court is inclined to grant liberty to the petitioner to approach the respondents by making application for extending the benefits available to the petitioner under G.O.Ms.No. 174 dated 31.12.2018.

13. With the above observation, the writ petition is dismissed. The petitioner is at liberty to approach the respondents by making application for extending the benefits available to the petitioner under G.O.Ms.No.174 daed 31.12.2018. No costs. Consequently, connected Miscellaneous Petition is closed.
SR.NO.

Sd/-
Assistant Registrar(C.O)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
State of Tamil Nadu,
(Agriculture),
Fort.St.George,
Chennai.

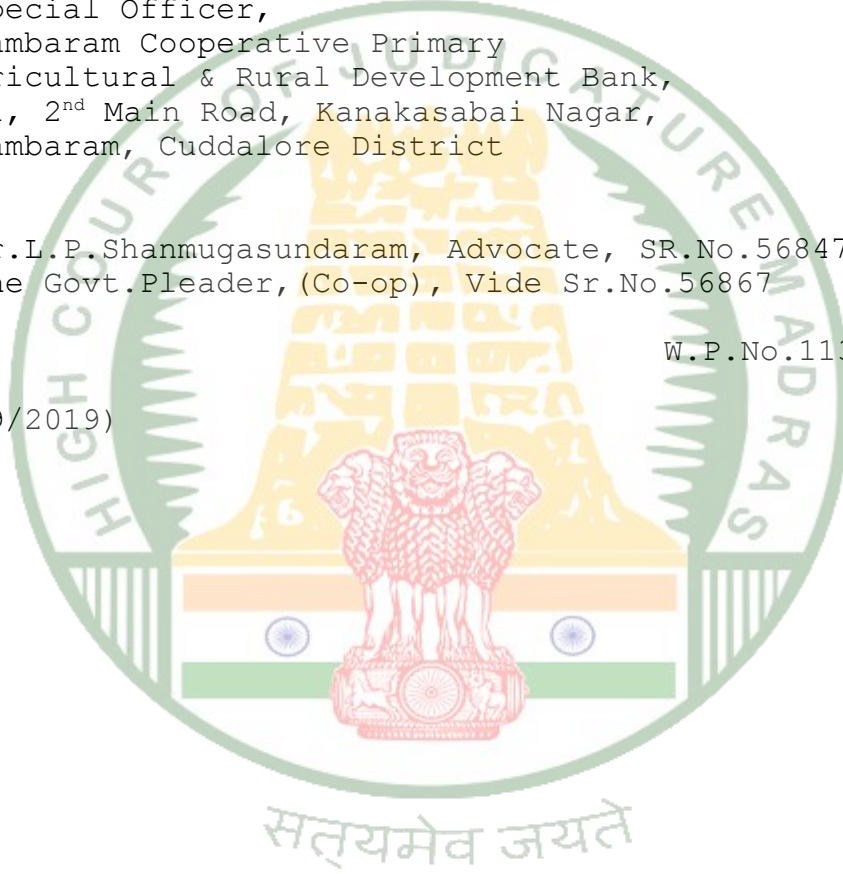
2. The Secretary to Government,
State of Tamil Nadu,
(Cooperation, Food and Consumer
Protection Department),
Fort St. George, Chennai.

3. Regional Manager,
Chidambaram Cooperative Primary
Agricultural & Rural Development Bank,
Villupuram.
4. The Secretary,
Chidambaram Cooperative Primary Development Bank,
No.161, First Main Road,
Kanakasabai Nagar, Chidambaram,
Cuddalore District
5. The Special Officer,
Chidambaram Cooperative Primary
Agricultural & Rural Development Bank,
No.1, 2nd Main Road, Kanakasabai Nagar,
Chidambaram, Cuddalore District

+1cc to Mr.L.P.Shanmugasundaram, Advocate, SR.No.56847
+1cc to the Govt.Pleader, (Co-op), Vide Sr.No.56867

W.P.No.11310 of 2011

Kak(28/09/2019)



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