

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.09.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.13337 of 2004

and

W.M.P.Nos. 15613 & 15614 of 2004

D.R.Krishnamoorthy

... Petitioner

..Vs..

The Special Officer,
K.Kariamanickam Primary Co-operative Agriculture Bank Limited,
No.R-1254, Manachanallur Taluk,
Kariamanickam - 621 005,
Tiruchirappalli District.

... Respondent

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the files of the respondent Bank in its proceedings dated 15.12.2003 and quash the same and consequently direct the respondent Bank to disburse the withhold retirement benefits of a sum of Rs.1,19,422/- forthwith to the petitioner.

For Petitioner : Mr.S.Rajasekar
For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader

सत्यमेव जयते
O R D E R

The proceedings dated 15.12.2003, imposing recovery by the Special Officer of respondent Co-operative Society is under challenge in the present writ petition.

2. The respondent Cooperative Society is K.Kariamanickam Primary Co-operative Agriculture Bank Limited which is registered under the Tamil Nadu Co-operative Societies Act, 1983. The Co-operative Society which is not funded by the State or by an instrumentality of a State is not a "State" within the meaning of Article 12 of the Constitution of India. Thus, in respect of the employees of the Co-operative Society, the

Statutory remedies provided under the Statute and the order impugned in the present writ petition was issued by the Special Officer of the respondent Co-operative Bank and the writ petitioner has to approach the Competent Authority under Section 153 of the Tamil Nadu Co-operative Societies Act for the redressal of his grievances. Further in respect of such disputed facts and circumstances, a complete adjudication is essential and such an adjudication cannot be done in writ jurisdiction under Article 226 of the Constitution of India. The disputed issues are to be adjudicated with reference to the original files as well as adducing evidence by respective parties. Under these circumstances, exhausting the remedy provided under the statute is of paramount importance and the High Court cannot dispense with or waive an appeal in a routine manner, wherever the disputed questions are raised. The legal principles regarding maintainability of the writ petition filed against the Co-operative Society has been decided by the larger bench of this Court in the case of K.Marappan Vs. The Deputy Registrar of Co-operative Societies and another reported in 2006 (4) CTC 689. Thus, the petitioner is at liberty to approach the Competent Authority under the provisions of the Tamil Nadu Co-operative Societies Act for the purpose of redressing his grievances.

3. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

Pns
To

The Special Officer,
K.Kariamanickam Primary Co-operative Agriculture Bank
Limited,
No.R-1254, Manachanallur Taluk,
Kariamanickam - 621 005,
Tiruchirappalli District.

+1 CC to Mrs.R. Hemalatha, Advocate sr 81749.

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LN(CO)
SP(18/11/2019)