

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2019

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.6680 of 2010 &  
M.P.No.1 of 2010 &  
WMP.No.21407 of 2019

C.Natarajan

...Petitioner

Vs.

1.State of Tamil Nadu represented  
by its Secretary  
Co-operation, Food and Consumer  
Protection Department  
Fort St. George  
Chennai 600 009

2.Registrar of Co-operative Societies  
Chennai

3.Deputy Registrar / Chief Revenue Officer  
Erode District Central Co-operative Bank  
Bhavani Main Road  
Erode-638 003

4.The Nasiyanur Primary Agricultural  
Co-operative Bank Ltd., No.A.A.187  
Nasiyanur Post  
Erode Taluk and District

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records relating to decree made in A.C.No.686 of 2007 dated 21.01.2008 passed by Deputy Registrar / Chief Revenue Officer, Erode District Central Co-operative Bank, Erode 638 003, the third respondent herein and quash the same and consequently direct the respondent and their subordinates to extend the benefit of the G.O.(Ms) No.70 dated 13.05.2006 and G.O.(Ms).No.96 dated 05.07.2006 Co-operation, Food and Consumer Protection (CCI) Department to the loan secured by the petitioner herein in loan No.227 from the fourth respondent

society for the agricultural and related purpose and as extended to other similarly placed agriculturist so as to wipe out the loan arrears payable to the fourth respondent society as on 31.03.2006.

For Petitioner : Ms.V.Jaya Krithika  
for M/s.N.Damodaran

For Respondents : Ms.T.Girija, G.A. for R1  
Mr.L.P.Shanmugasundaram for R2 & R3  
Mr.K.V.Ananthakrishnan for R4

#### ORDER

The petitioner has filed this writ petition, seeking the following relief:-

"To issue a writ of Certiorari and Mandamus, to call for the records relating to decree made in A.C.No.686 of 2007 dated 21.01.2008 passed by Deputy Registrar / Chief Revenue Officer, Erode District Central Co-operative Bank, Erode 638 003, the third respondent herein and quash the same and consequently direct the respondent and their subordinates to extend the benefit of the G.O.(Ms) No.70 dated 13.05.2006 and G.O.(Ms).No.96 dated 05.07.2006 Co-operation, Food and Consumer Protection (CCI) Department to the loan secured by the petitioner herein in loan No.227 from the fourth respondent society for the agricultural and related purpose and as extended to other similarly placed agriculturist so as to wipe out the loan arrears payable to the fourth respondent society as on 31.03.2006."

2.The petitioner is an agriculturist and he and his family members have been carrying agricultural operations in the lands situated at R.S.No.42/4 (Hect. 0.85.5 ares), R.S.No.45/1 (Hect.0.09.0 ares) and R.S.No.45/2 (0.83.0 ares), Attayampalayam Village, Erode Taluk and District and except the agricultural work, they have no other avocation to lead their livelihood. The fourth respondent which is registered under Tamil Nadu Co-operative Societies Act, 1983, operating in their area, has been offering various agricultural loans to the farmers. Accordingly, the petitioner has secured a loan for a sum of Rs.1,80,000/- from the fourth respondent Society for agricultural purpose during the year 1999 and also executed a registered Mortgage Deed along with his family members in favour of the fourth respondent bank on 07.09.1999. However, for

the due re-payment of the agricultural loans secured from the bank, which is continuing mortgage for 12 years. While so, on 04.10.2002, the petitioner applied to the fourth respondent for the agricultural loan of Rs.1,20,000/- and even in the said application, it has been categorically stated that it was secured only for reclamation of the agricultural land and by accepting the same, the said loan was sanctioned by the Society in Loan No.227 and the mortgage of the lands already pledged with the society was taken as a security for the due repayment of the said loan. Due to non-repayment of loan amount, the fourth respondent filed an arbitration proceedings in A.R.C.No.686 of 2007 before the third respondent and also secured a decree on 21.01.2008 for Rs.1,80,271/- as against the petitioner and his family members. Taking into consideration the severe drought conditions prevailing the State, the Government issued G.O.Ms.No.70, Co-operation, Food and Consumers Protection (CCI) Department, dated 13.05.2006 wherein the Government issued necessary orders for wiping out the entire arrears of loan amount payable by the agriculturists as on 31.03.2006 to the respective Societies. Failing to extend the benefit of G.O.Ms.No.70, to the petitioner, the present writ petition has been filed.

3.The learned Additional Government Pleader appearing for the third respondent would submit that though initially the Government issued G.O.Ms.No.327 dated 27.12.2006 wherein the interest rate was reduced for non-farm sector loans from 18% to 12%, the petitioner availed the benefit. Thereupon, the fourth respondent has initiated arbitration proceedings in ARC No.686 of 2007 against the petitioner for recovery of loan amount and the award was also passed directing the petitioner to pay a sum of Rs.1,80,271/- towards the loan availed under title deed loan. Accordingly, he prayed to pass appropriate orders.

4.The learned counsel appearing for the fourth respondent filed a detailed counter affidavit stating that the loan having been availed in favour of the petitioner is a non-agricultural loan. G.O.Ms.No.70 relied upon by the learned counsel for the petitioner would not be applicable to the present case on hand. The petitioner has availed both agriculture and non-agriculture loan by title deeds by mortgaging the property. The petitioner obtained mortgage loan of Rs.1,50,000/- on 28.09.1999 under title deed and Kissan Credit Card Loan (hereinafter referred to as 'KCCL') of Rs.24,100/- on 26.05.2000, without providing any security. It is further stated that petitioner discharged the KCCL loan of Rs.24,100/- on 15.03.2002 and obtained further loan on 16.03.2002 under KCCL loan of Rs.23,633/- in Account No.116. Thereafter, the petitioner discharged the loan of Rs.1,50,000/- and on 04.10.2002, the petitioner obtained Title Deposit Loan

(TDL loan) at Rs.1,20,000/- in Account No.227 against the properties already mortgaged. Pursuant to G.O.Ms.No.70 dated 13.05.2003 issued by the Government, the 4th respondent completely waived the loan of Rs.29,043/- with interest availed by the petitioner and issued Discharge Certificate dated 12.08.2006. As against the non-payment of TDL loan and without availing the benefit under G.O.Ms.No.327, dated 27.12.2006 that reducing the interest rate on (Pannai Sara kadan) non-agriculture loan from 18% to 12%, the 4th respondent filed arbitration proceedings in ARC.No.686 of 2007-08 for recovery of the amount under the Co-operative Societies Act against the petitioner. The Arbitrator passed an award dated 21.01.2008 directing the petitioner to pay a sum of Rs.1,80,271/-. Since the petitioner did not discharge the liability under the Award, the 4th respondent filed E.P.No.21-08-09 for recovery of the said amount and the same is pending. Without filing any appeal under Section 152 of the Co-operative Societies Act, filing the present writ petition under Section 226 of Constitution of India, is unsustainable in law. Therefore, he prays for dismissal of the above writ petition.

5.The learned counsel for the fourth respondent further submitted that the petitioner has availed the benefit under G.O.Ms.No.327 dated 27.12.2006 and G.O.Ms.No.70, dated 13.05.2006 under agriculture loan, cannot seek the benefit of G.O.Ms.No.70 under non-agriculture loan, which is unsustainable one. Hence, the petitioner's prayer cannot be considered after lapse of several years.

6.On perusal of the records, it is seen that the petitioner initially mortgaged the property and periodically without discharging the document, he continuously obtained the loans from the said Society. It appears that in order to avail the benefit under G.O.Ms.No.327, waiving the interest from 18% to 12%, the petitioner filed an application before the authority and accordingly, the authority waived the interest from 18% to 12% in favour of the petitioner. Even thereafter, the petitioner has not paid the loan amount and that the authority initiated arbitration proceedings and passed the award against the petitioner. The petitioner has already availed the benefit under subsequent G.O.Ms. No.327 dated 27.2.2006, he has chosen to avail the benefit under G.O.Ms.No.70 is unsustainable and impermissible. Therefore, this Court is not inclined to interfere with the impugned order passed by the third respondent.

7.In the result, this writ petition is dismissed. However, liberty is granted to the petitioner to work out his

remedy before the appropriate authority in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary  
Co-operation, Food and Consumer  
Protection Department  
Fort St. George  
Chennai 600 009
- 2.Registrar of Co-operative Societies  
Chennai
- 3.Deputy Registrar / Chief Revenue Officer  
Erode District Central Co-operative Bank  
Bhavani Main Road  
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- 4.The Nasiyanur Primary Agricultural  
Co-operative Bank Ltd., No.A.A.187  
Nasiyanur Post  
Erode Taluk and District

+lcc to Mr.N.Damodaran Advocate, S.R.No.64657  
+lcc to Mr.K.V.Ananthakrishnan Advocate, S.R.No.64397  
+lcc to the Government Pleader, S.R.No.64661,64662

RR(CO)  
CB(13/09/2019)

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