

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2019

CORAM

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.5141 of 2019

J.Kalaiselvi

..Petitioner

Vs.

1. The Director,
Department of Public Health,
Chennai-600 006.

2. Tiruchy District Public Health Department
Employees Co-op.Thrift & Credit Society Ltd.,
Represented by its Secretary,
Opposite to Chinthamani Co-op.Supermarket,
E.V.R.Road, Puthur, Trichy-620 017.

..Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to issue a 'No Due Certificate' with respect to the Loan obtained by the Petitioner vide Loan No.146/2003-2004 dated 05.02.2004 pursuant to the petitioner representation dated 09.05.2018.

For Petitioner : Mr.K.Karuppaiya Moopanar

For Respondents : Ms.T.Girija,
Govt. Advocate [For R1]
Mr.Bala Ramesh
Special Govt. Pleader [For R2]

O R D E R

According to the learned counsel for the petitioner, the petitioner was a member of the 2nd respondent Society and also obtained a loan of Rs.1,00,000/- from the 2nd respondent in the year 2004. Petitioner's husband and her brother repaid a sum of Rs.97,095/- by way of Cheque No.599123 dated 29.01.2008. The then Secretary of the Society Prabhu had created false and fraudulent records and had impersonated as a bank official and had misappropriated the amounts paid by the petitioner and

another person and transferred the amounts to his private account instead of credited in the petitioner's loan account of the 2nd respondent's society. The criminal case was also registered against him in C.C.No.190/2010 before the learned Judicial Magistrate-I, Trichy and the aforesaid Prabhu was convicted by the Judicial Magistrate Court.

2. According to the petitioner, the petitioner has repaid the said loan amount borrowed from the respondent-Society. On 09.05.2018, the petitioner had sent representation to the 2nd respondent to issue 'No Objection Certificate' in her favour by closing her loan account but the 2nd respondent has not issued 'No Objection Certificate' to the petitioner. Therefore, the petitioner preferred this writ petition before this Court.

3. The learned Special Government Pleader appearing for the 2nd respondent would submit that the present writ petition is not maintainable as against the 2nd respondent-Society in the light of the larger bench judgment of this Court in the case of K.Marappan Vs. Deputy Registrar of Co-operative Societies, Namakkal reported in (2006) 4 CTC 689.

4. The learned Special Government Pleader appearing for the 2nd respondent would further submit that the petitioner is having alternative remedy under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 before the concerned Authority.

5. The learned counsel for the respondents have rightly submitted that without exhausting the said remedy, the petitioner has come before this Court with this writ petition under Article 226 of the Constitution of India, the same is not maintainable in the light of the judgment cited supra.

6. In view of the above submissions made by the learned counsel for the parties, this writ petition is dismissed with liberty to the petitioner to approach the concerned Authority under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, if so advised within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

//True Copy/

Sub Assistant Registrar

ssn

To

1. The Director,
Department of Public Health,
Chennai-600 006.

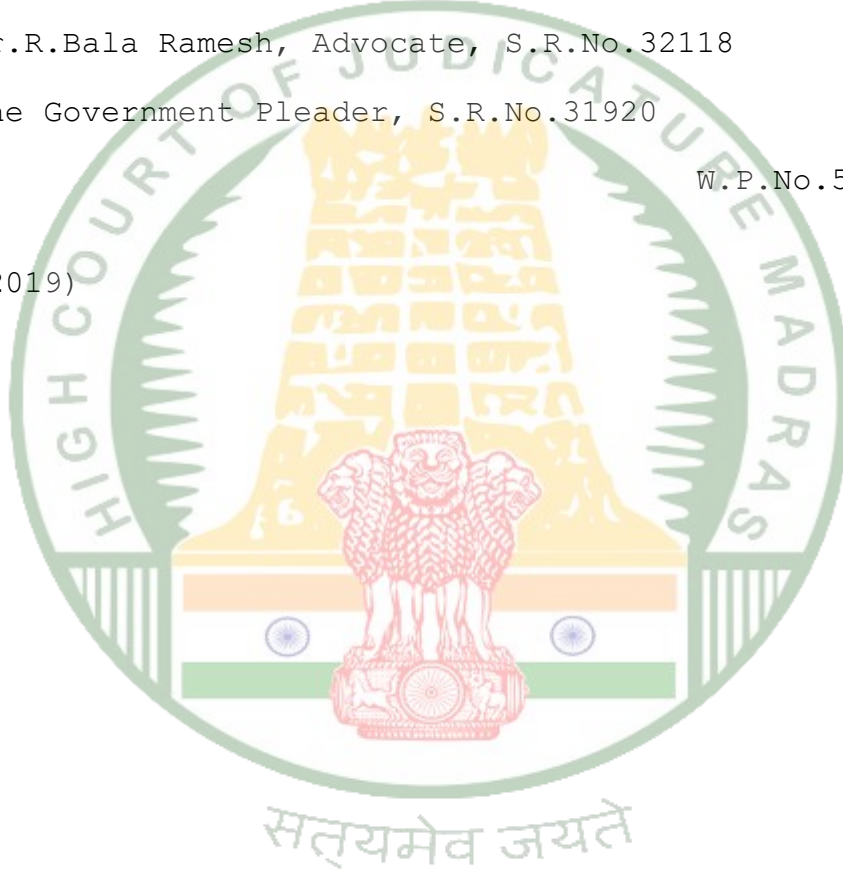
2. Tiruchy District Public Health Department
Employees Co-op.Thrift & Credit Society Ltd.,
Represented by its Secretary,
Opposite to Chinthamani Co-op.Supermarket,
E.V.R.Road, Puthur, Trichy-620 017.

+1cc to Mr.R.Bala Ramesh, Advocate, S.R.No.32118

+1cc to the Government Pleader, S.R.No.31920

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SVI (CO)
CS (20/05/2019)



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