

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2019

CORAM

THE HON'BLE Mr. JUSTICE M.DHANDAPANI

W.P.No.4318 of 2010
and
M.P.Nos.1/2010 & 1/2011

V.Rajaraman

... Petitioner

Vs

1.The Joint Registrar of cooperative Society
Cuddalore Region,
Cuddalore, Cuddalore District.

2.The Deputy Registrar of Cooperative Society
Cuddalore Circle, Cuddalore,
Cuddalore District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of The Constitution of India praying to issue a writ or order or direction, particularly in the nature of writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.8959/2009 dated 12.01.2010 and quash the same, consequently directing the respondents to issue loan waiver certificate to the petitioner.

For Petitione : Mr.C.Prakasam
For Respondents: Mr.T.Giriya, Government Advocate

O R D E R

The case of the petitioner is that the petitioner had applied agricultural loan for cultivating crops to the tune of Rs.7,572/- on 29.07.1993 and Rs.6,398/- on 10.08.1993 totally Rs.13,970/-. Since the petitioner was not paid the amount, the 2nd respondent passed an award in A.R.C.6982/1994-95 and thereafter, Execution Petition was also filed in C.E.P.No.1822/2002-03 and initiated proceedings for recovering the amounts against the petitioner.

2. While being so, on 31.03.2006, vide G.O.M.D.No.70 the Tamil Nadu Government waived all the agricultural loans. In order to apply for fresh loan, the petitioner made several representations to the Cooperative Societies seeking Loan Waiver Certificate. However, the respondent has not considered the representations. Therefore, the petitioner left with no other option approached this Court by filing writ petition in W.P.No.22403 of 2008. This Court vide order dated 15.10.2008 directed the respondents to pass appropriate orders on the representation. Thereafter, the impugned order was passed by the 1st respondent, rejecting the representation made by the petitioner. Challenging the impugned order of rejection, the petitioner has constrained to move this writ petition.

3. The learned counsel appearing for the petitioner would submit that the Enquiry Officer has initiated surcharge proceedings against the petitioner and in his report under Section 81 of the Tamil nadu Cooperative Societies Act, it is held that the loan advanced in favour of the petitioner is Binami transaction. However the very same Enquiry Officer deposed before the Criminal Court of law that the petitioner has obtained genuine loan from the Cooperative Society and however, he has defaulted in repayment of loan. Such prerogative stand taken by the Enquiry Officer is inadmissible one and the surcharge proceedings initiated against the petitioner is unsustainable. Therefore, the petitioner is entitled to Loan Waiver Certificate which was extended by the State Government in favour of the poor farmers and hence he prays for appropriate orders.

4. Per contra, Ms.T.Girija, learned Government Advocate appearing for the respondents would submit that alleging the petitioner's loan is bogus, Special officer under Section 81 was appointed based on the report of surcharge proceedings are initiated against the petitioner. Thereafter, in ARC proceedings, decree was passed against the petitioner. As per the Government Order in G.O.MD.No.70 on 31.03.2006 issued by the State Government, it is held that based on the bogus documents, if anyone obtained Binami loan, such persons are not entitled to waive the loan. Accordingly, the respondents after considering the entire materials rejected the petitioner's request and it is sustainable one and prays for dismissal of this petition.

5. In the present case, the petitioner obtained crop loan to the tune of Rs.7,572/- and Rs.6,398/- total sum of loan amount was Rs.13,970/- and it is also undisputed fact that based on the Enquiry report, criminal case was registered against the Secretary and other persons, who worked in the same Society where the petitioner is also a Member, in C.C.No.173-176/2005 in Cr.No.4/2002 before the Judicial Magistrate Court, Banruti.

Subsequently, the accused persons therein found guilty for their offence and paid the misappropriation amount and the case was set off under the provisions of Probation of Offenders act. Further in the present case, though the petitioner initially making a representation to the respondent authority for loan waiver certificate, pursuant to the order of this Court, the impugned order was passed and a perusal of the impugned order, it came to light that for non payment of the loan obtained by the petitioner in the year 1983, ARC proceedings was initiated against the petitioner and a decree was passed. Subsequently, based on the enquiry report the Secretary and other employee of the Society were charged for misappropriation of funds from the Society for creating Binami transactions. They also admitted and found guilty for their offence and paid the misappropriation amount under the provisions of Probation of Offenders Act and the Enquiry Officer in his report under Section 81, has also held that the loan of the petitioner is the Binami loan.

6. In view of the above, the order of the 1st respondent does not warrants interference and the petitioner has not made out any case. Hence, the writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The Joint Registrar of cooperative Society
Cuddalore Region,
Cuddalore, Cuddalore District.

2.The Deputy Registrar of Cooperative Society
Cuddalore Circle, Cuddalore,
Cuddalore District.

+1 CC to Govt. Pleader sr 65694.

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KS(CO)
SP(06/09/2019)