

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.12215 of 2019 &

W.M.P.No.12495 of 2019

K.Murugan

...

Petitioner

Vs.

1.The Deputy Registrar of Co-operative
Societies, Thirupattur Circle,
Thirupattur, Vellore District.

2.No.C.1363, K.Chettiyappanur Primary
Agricultural Co-operative Bank Ltd.,
Rep. by its President,
Chettiyappanur Village & Post,
Vaniyampadi Taluk, Vellore District

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Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Mandamus, directing the respondents to furnish the copies of the relied documents and list of witnesses to the petitioner and permit the petitioner to engage an Advocate to defend him in the Surcharge Proceedings conducted by the first respondent vide Tha.Thi.2/2018-19 Sa.Pa., dated 23.05.2018 under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983.

For Petitioner : Mr.A.S.Narasimhan

For Respondents: Ms.T.Girija
Government Advocate for R1
Mr.L.P.Shanmugasundaram
Special Government Pleader for R2

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O R D E R

Ms.T.Girija, learned Government Advocate takes notice for the first respondent; Mr.L.P.Shanmugasundaram, learned Special Government Pleader takes notice for the second respondent. By consent, this Writ Petition is taken up for final disposal.

2. The prayer in the Writ Petition is for issuance of Writ of Mandamus, directing the respondents to furnish the copies of the relied documents and list of witnesses to the petitioner and

permit the petitioner to engage an Advocate to defend him in the Surcharge Proceedings conducted by the first respondent vide Tha.Thi.2/2018-19 Sa.Pa., dated 23.05.2018 under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983.

3. The case of the petitioner is that a Surcharge Notice has been served under Section 87 of the Tamil Nadu Co-operative Societies Act (in short "the Act") by the first respondent, calling upon him and 10 others to submit explanations for the alleged losses said to have caused to the second respondent-Society in respect of grant of crop loans and waiver of crop loans as per the Scheme of the Government of Tamil Nadu announced in the year 2016. On receipt of the notice, the petitioner made a representation on 04.04.2019 to furnish the report as well as the documents at free of costs to her. Without furnishing the said copy of the report, the respondents have proceeded with the enquiry. Therefore, the petitioner has approached this Court to furnish the copy of the report as well as the documents.

4. The learned Special Government Pleader and the learned Government Advocate appearing for the respondents would submit that the first respondent, vide notice, dated 27.03.2019, has informed the petitioner to approach him for obtaining necessary documents on payment of costs and there is no provision for granting of such documents at free of costs.

5. On perusal of the notice dated 27.03.2019, issued by the first respondent, it is seen that the petitioner was directed to approach the first respondent and seek relevant documents pertaining to enquiry under Section 87 of the Tamil Nadu Co-operative Societies Act, on payment of costs and however, it is seen that the petitioner has made representation on 04.04.2019 to furnish all the documents at free of costs. In the notice, dated 27.03.2019 issued by the first respondent itself, it is clearly stated that there is no such provision under the Act for granting documents at free of costs. Therefore, the petitioner has to make necessary application before the first respondent for furnishing relevant documents, and if the application is filed, the first respondent shall consider such application on payment of costs pertaining to the enquiry under Section 87 of the Tamil Nadu Co-operative Societies Act. Further, the petitioner is directed to make such application within a period of one week from the date of receipt of a copy of this order. Thereafter, the first respondent shall consider the said application and pass orders in accordance with law, within a period of three weeks thereafter.

6. Insofar as the other prayer i.e., permission to engage an Advocate to defend the Surcharge Proceedings, is concerned, it is open to the petitioner to make a representation to the Authorities for engaging the Advocate, and if such representation is received, the same shall be considered on merits and in accordance with law.

7. With the above direction, the Writ Petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Registrar of Co-operative Societies, Thirupattur Circle, Thirupattur, Vellore District.

2.The President, No.C.1363, K.Chettiyappanur Primary Agricultural Co-operative Bank Ltd., Chettiyappanur Village & Post, Vaniyampadi Taluk, Vellore District.

+1cc to Mr.A.S.Narasimhan, Advocate sr.39621

+1cc to Special Government Pleader sr.40680

+1cc to Mr.L.P.Shanmugasundaram, Advocate sr.41091

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br(co)
nr 03/07/2019

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