

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.13658 of 2019

and

W.M.P.No.13719 of 2019

K.G.Samu

..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.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct 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 of his choice to defend him in the Surcharge Proceedings initiated by the first respondent vide Tha.Thi.2/2018-19 Sa.Pa. Dated 23.05.2018 U/Sec.87 of the Tamil Nadu Co-operative Act, 1983.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.L.P.Shanmugasundaram
Additional Government Pleader

O R D E R

The petitioner has filed the present Writ Petition for issuance of a Writ of Mandamus, to direct the respondents to furnish the copies of the relied documents and list of witnesses to the petitioner and permit him to engage an Advocate of his choice to defend him in the Surcharge Proceedings initiated 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.

2. According to the petitioner, he is an Executive Committee member of the Board of the Management in the 2nd Respondent/Co-operative Bank. He was issued with a Surcharge Enquiry notice on 23.05.2018 by the 1st respondent calling upon him to explain

as to why they should not be proceeded with suspension for the period from 09.05.2013 to 08.05.2018. On receipt of the Surcharge Notice, petitioner submitted an interim explanation on 18.06.2018 to the 1st respondent. Thereafter, the 1st Respondent issued a surcharge enquiry notice dated 15.02.2019 calling upon the petitioner to participate in the enquiry, which was proposed to be held on 26.02.2019, for which, the petitioner submitted a reply on 22.02.2019 to the 1st respondent requesting for list of witnesses and list of documents to be marked on the side of the 2nd respondent-Coperative Bank during the Surcharge Proceedings under Section 87 of the Tamilnadu Co-operative Societies Act. In consequence, without considering the petitioner's request, the first respondent issued a fresh enquiry notice dated 27.02.2019 fixing the date of enquiry as 08.03.2019. Once again on 04.03.2019, petitioner submitted a reply requesting the documents mentioned supra to prove his claim. Further, the action of the 1st respondent in refusing to furnish the copies of the relied documents to the petitioner and failure to reply the petitioner's request to engage lawyer's assistance of his choice to defend the surcharge proceedings, are illegal, arbitrary exercise of power and as against which, the petitioner has filed this present writ petition.

3.The learned counsel appearing for the petitioner pleaded that a direction may be issued to 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 of his choice to defend him, within a stipulated period of time to be directed by this Court.

4. The learned Additional Government Pleader appearing for the respondents fairly submitted that the petitioner is entitled to receive the copies of the relied documents and list of witnesses at his own cost and this Court had earlier granted permission to take assistance of lawyer at the time of enquiry in W.P.No.3933 of 2018 [R.N.Chandrasekar V. the Assistant Director of Handlooms & Textiles].

5. In view of the above, this Court is inclined to grant the benefit of the order granted in W.P.3933 of 2014 to this petitioner also. Accordingly, this Writ Petition is disposed of in the following manner:-

(i) The 1st respondent is directed to permit the petitioner to have the assistance of the lawyer at the time of enquiry.

(ii) The petitioner is directed to cooperate with the enquiry and the concerned respondent is directed to serve the copies of the documents to the petitioner after collecting reasonable fees from the petitioner and complete the enquiry

within a period of 12 weeks from the date of receipt of a copy of this order.
Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

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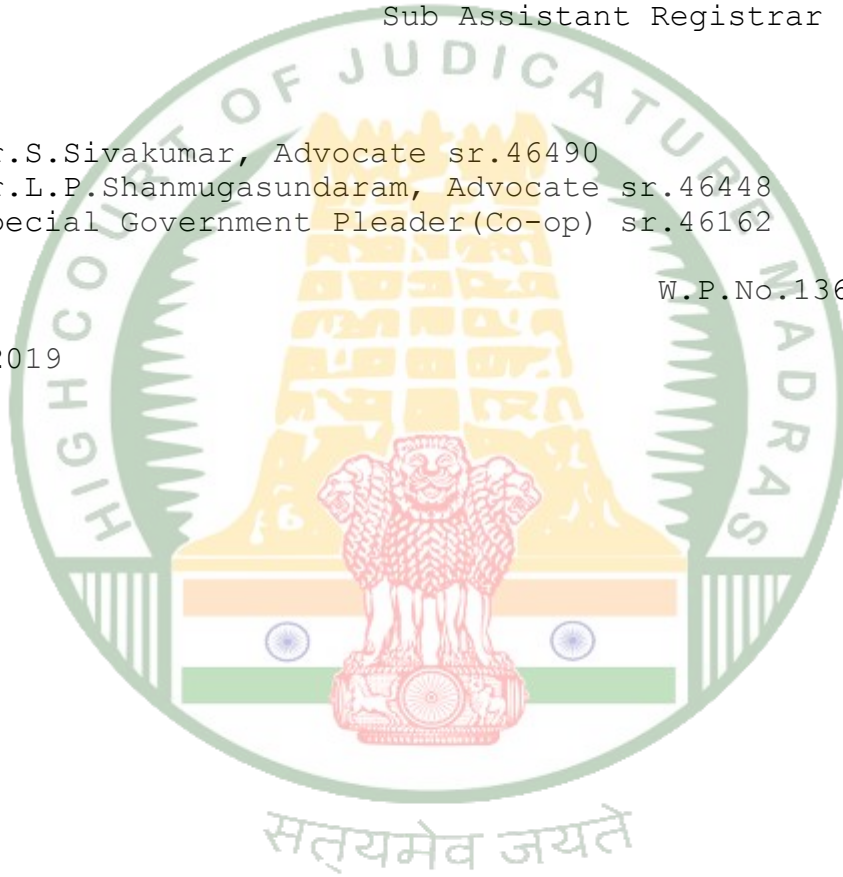
Sub Assistant Registrar

tta/ssd

+1cc to Mr.S.Sivakumar, Advocate sr.46490
+1cc to Mr.L.P.Shanmugasundaram, Advocate sr.46448
+1cc to Special Government Pleader(Co-op) sr.46162

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nr 16/07/2019



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