

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.07.2019

PRONOUNCED ON : 10.07.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.19153 of 2019 and
W.M.P.Nos.18542 & 18544 of 2019

1.Mr.V.Veeramani
2.Mrs.V.Latha
3.Mrs.G.Indhira
4.Mr.Venkatachalam
5.Mrs.K.Yoga
6.Mrs.N.Indhira
7.Mrs.S.Jayavalli

...

Petitioners

Vs

1.The State of Tamil Nadu,
Rep. Its by Secretary Government,
Co-operative Food and Consumer Department,
Fort St. George, Chennai – 600 009.

2.The Joint Registrar of Co-operative Societies,
Office of the Joint Registrar of Co-operative Society,
Thiruvarur District.

3.The Deputy Registrar of Co-operative Society,
Office of the Deputy Registrar of Co-operative Society,
Mannargudi Taluk,
Thiruvarur District.

4.The President,
ZC94, Sithamalli Primary Agricultural
Co-operative Credit Society,
Sithamalli Post,
Mannargudi Taluk,
Thiruvarur District.

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Certiorarified mandamus calling for the records of the fourth respondent proceedings in pursuance to the impugned notice dated 17.06.2019 of the fourth respondent and consequential paper publication dated 18.06.2019 vide circulated in daily news papers (Dhinathandhi) dated 21.06.2019 in Tanjore Edition in so far as the Jewelry Loans of the petitioners are concern and to quash the same and consequently directing the respondents to avail the benefits of G.O.Ms.No.59 Co-operative Food and Consumer Protection (CC1) Department dated 28.06.2016 and to discharge the loans within a time frame fixed by this Court.

For petitioner

:Mr.G.Ilamurugu

For Respondents

:Mr.D.Venkatachalam,
Additional Government Pleader

ORDER

The petitioners are the members of the 4th respondent Primary Agricultural Co-operative Society. They availed jewel loan from the Society. According to the petitioners, as per G.O.Ms.No.59 Co-operative, Food and Consumer Protection (CC1) Department dated 28.06.2016, passed by the first respondent, they are entitled for waiver of the jewel loan since, they are all small farmers. The fourth respondent wantonly omitted to include the

petitioners jewel loan in the waiver list, in spite of the proceedings of the third respondent dated 24.08.2018 that, the loans of the petitioners granted by the then Secretary to the Society, Kalyanasundaram are genuine loans.

2.The representations given by the petitioners to the authorities to waive their loan in view of G.O.Ms.No.59 dated 28.06.2016 was not considered. Suddenly, the fourth respondent has brought the jewels pledged by the petitioners, for auction. The said auction notices are challenged in this writ petition as illegal and contrary to law.

3.According to the petitioners, they are all small farmers and entitled for loan waiver as per G.O.Ms.No.59 dated 28.06.2016. The auction notices are issued in hurried manner within 15 days of the demand notice. For recovery of the loan, the respondents ought to have followed the procedures under Section 90 of the Tamil Nadu Co-operative Societies Act.

4.Mr.D.Venkatachalam, learned Additional Government Pleader appearing for the respondents would submit that G.O.Ms.No.59 dated 28.06.2016, which was issued for waiver of loans availed by small and middle farmers, is not applicable to the petitioners. They did not satisfy the criteria stipulated in the said Government Order. The loans in the names of

the petitioners were sanctioned by the then Secretary, Kalyanasundaram, without following the norms for disbursing agricultural jewel loan. Later, charges were framed against him and the loans of the petitioners were subject matter of the surcharge proceedings, these petitioners failed to repay the loan amount. Hence, after due notices, auction date is fixed as on 04.07.2019.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents and also perused the records.

6. The petitioners admit that they all availed jewel loans from the fourth respondent Society and they have not repaid the loan amount. They claim waiver as per G.O.Ms.No.59 dated 28.06.2016. As per the said Government Order, the borrower should be a small farmer holding less than 2.5 acres of land or a middle farmer holding 2.5 to 5 acres of land. He/she should be registered so on the date of availing loan. The waiver scheme is subject to proceedings under sections 81, 82 and 87 of the Tamil Nadu Co-operative Societies Act. Persons who have availed loan on producing fake documents are not eligible to avail loan.

7.As far as the case of the petitioners is concerned, admittedly, their loans are subject matter of proceedings under Section 81 of the Tamil Nadu Co-operative Societies, Act initiated against Kalyanasundaram. Therefore, they are not entitled to seek waiver. The other contention raised by the petitioners that, for recovery of loan, the respondents should only resort to procedure laid under Section 90 of the Tamil nadu Co-operative Societies Act, is not a tenable submission. For recovery of loan advanced against the jewels pledged, the Society has right to sell the unredeemed jewels and can resort to the procedure under Section 90 of the Tamil Nadu Co-operative Societies Act, for the balance unrecovered portion, if any.

8.Regarding notice, the petitioners claim that notice dated 17.06.2019 calling upon them to redeem the jewels within 15 days, failing which, it will be put to public auction. However, public notice issued even before the expiry of 15 days. It is true that the public notice is issued even before the time given for payment. But the date of auction is fixed only on 04.07.2019, i.e., after 15 days of the last notice issued to the petitioners.

9.If, the petitioners pay the loan amount, before expiry of 15 days i.e, 03.07.2019, then automatically, they will get back the jewels. Then their

jewels cannot be sold in auction on 04.07.2019. For the reasons stated above, the writ petition is liable to be dismissed.

10.In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10.07.2019

jbm

*Index: Yes/No
Speaking order/non speaking order*

To

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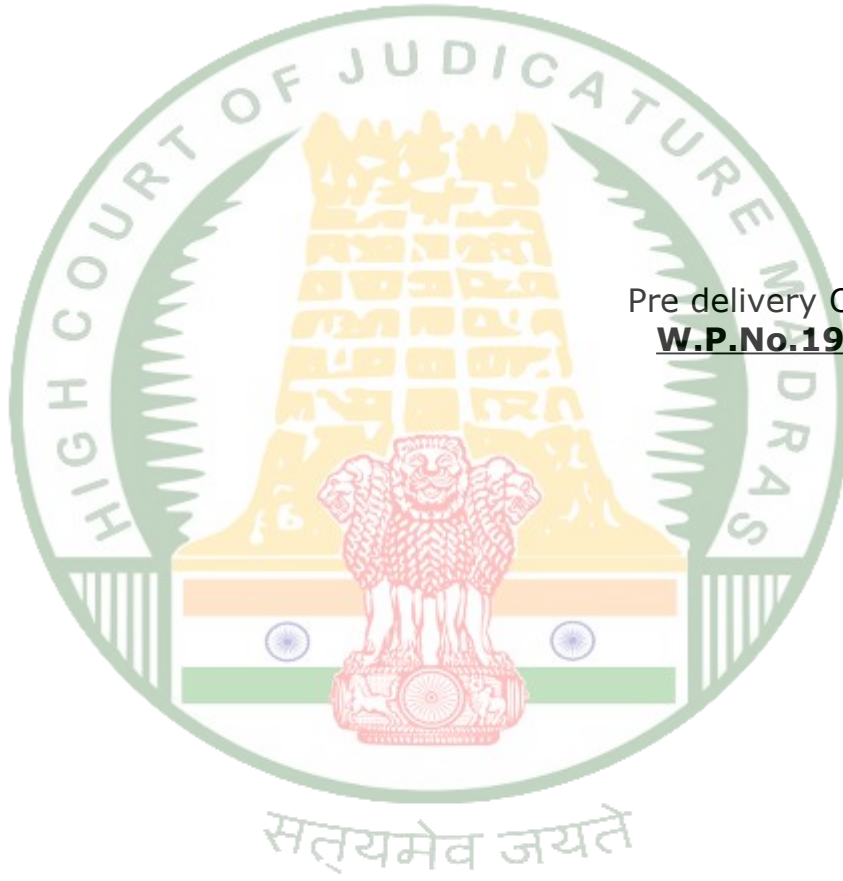
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G.JAYACHANDRAN.J.,

jbm



Pre delivery Order made in
W.P.No.19153 of 2019

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