



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A. (MD)No.760 of 2020

WEB COPY

R.Sathyamoorthy

... Appellant/Writ Petitioner

Vs.

1.The Joint Registrar (Co-operative Societies),
Office of Joint Registrar,
Co-operative Building Complex,
Medical College Road,
Thanjavur - 7.

2.The Secretary,
Z-805, Koonancheri Primary Agricultural
Co-Op. Credit Society Limited,
Thirumandangudi Post Papanasam Taluk,
Thanjavur District. PIN - 612 301.

3.The Cane Officer,
Thiru Arooran Sugar Factory,
Thirumandangudi, Thirumandangudi Post,
Papanasam Taluk,
Thanjavur District.

... Respondents/Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Appeal against the order passed by this Court in W.P.(MD)No.34 of 2017, dated 15.07.2020.

Prayer in WP(MD). 34 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus, to call for the records of the 2nd respondent communication dated 29.11.2016 and quash the same and direct the 2nd respondent to incorporate the petitioners name in loan waiver scheme as per GO(Ms) NO. 59 dated 28.06.2016 consequently direct the 1st respondent to direct 2nd respondent to pay Rs. 32,999/- paid by the 3rd respondent to the 2nd respondent 14.07.2016, to petitioner with due interest by considering his representation dated 15.09.2016.

For Appellant

: Mr.A.Haja Mohideen

For Respondents

: Mr.M.Muthugeethayan
Special Government Pleader



J U D G M E N T

(Judgment of the Court was delivered by M.SATHYANARAYANAN, J)

The appellant is the writ petitioner and he made a challenge to the impugned communication of the second respondent dated 29.11.2016, addressed to the Chairman of the Taluk Legal Services Committee, Papanasam, in and by which it has been stated that the loan of Rs.21,000/-, obtained by the petitioner for sugarcane cultivation has been discharged. The Writ Petition, after contest, came to be dismissed vide impugned order dated 15.07.2020 and challenging the legality of the same, the present Writ Appeal has been filed.

2.The facts leading to the filing of the Writ Petition has been narrated in detail in the impugned order itself and therefore, it is unnecessary to reiterate the facts once again.

3.The facts remain that the petitioner being the member of the second respondent society was sanctioned a loan of Rs.21,000/- for cultivating sugarcane crop for the year 2013 - 2014 and despite supply of sugarcane, the third respondent society did not pay any amount for the same. Therefore, the appellant/writ petitioner applied for second loan for cultivation of sugarcane for the year 2014-2015 and the loan amount of Rs.4,529/- was sanctioned. It is the case of the petitioner that the Government has issued an order in G.O.(Ms.) No.59, Cooperation, Food and Consumer Protection Department, dated 28.06.2016, to waive the entire outstanding loan of principal, interest, penal interest and all other charges and he is fully eligible for the loan waiver scheme, however, the second loan of Rs.4,529/- has been waived and not his first loan of Rs.21,000/- and the representations sent by the petitioner did not evoke any response. Therefore, the appellant/writ petitioner approached the Taluk Legal Services Committee, Papanasam and they corresponded with the second respondent and the second respondent has sent a communication that the appellant himself has voluntarily paid his loan amount of Rs.21,000/- and therefore, the question of waiver of loan does not arise. The learned Single Judge after taking into consideration of the facts and circumstances as well as the relevant by-laws of the society, found that the impugned order does not warrant interference and therefore, dismissed the Writ Petition and hence, this Writ Appeal.

4.The learned counsel for the appellant would submit that the appellant did not discharge the loan of Rs.21,000/- and it is obligatory on the part of the second respondent to produce the relevant file to satisfy as to the settlement of the same and at best it could only be book entry and not actual settlement and hence, prays for appropriate orders, directing the waiver of loan and refund of Rs.21,000/- to him.



5.Per contra, the learned Special Government Pleader appearing for the respondents has drawn the attention of this Court to the communication of the first respondent dated 19.09.2016, in Na.Ka.No.5729/2016/ Tho.Ve.Ku.Ka.Sa. and would submit that even on that date a communication has been sent to the petitioner, wherein it has been stated that he has discharged the loan of Rs.21,000/- and in the light of the said factual aspect, interference may not be warranted at the hands of this Court and prays for dismissal of this Writ Appeal.

6.This Court carefully considered the rival submissions and perused the materials placed on record.

7.The second respondent took an unique stand that the appellant/writ petitioner had discharged his first loan of Rs.21,000/- and this also would reveal from the relevant book of accounts and the credit entry made on 31.07.2020. Though it is the vehement and forceful submission of the learned counsel for the appellant/writ petitioner that it is not so, in the light of the factual disputes involved, this Court also under Clause 15 of the Letters Patent cannot go into the same.

8.The learned Judge has also taken note of the said aspect as well as the relevant by-laws and rightly reached the conclusion to negative the claim of the appellant/writ petitioner. This Court on an independent application of entire materials also finds that there is no error apparent on the face of the record in the order of the learned Single Judge and there is no merit in the appeal.

9.Accordingly, the Writ Appeal is dismissed, confirming the impugned order of the learned Single Judge dated 15.07.2020 made in W.P.(MD) No.34 of 2017. However, in the facts and circumstances of the case, there shall be no order as to the costs.

Sd/-

Assistant Registrar (CS-I)

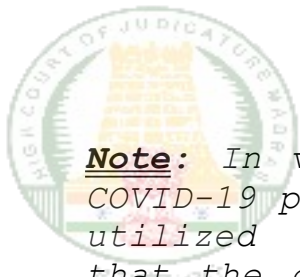
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Sub Assistant Registrar (CS)

sj

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To

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+1 CC to SGP (SR-16766[F] dated 14/09/2020)

W.A. (MD)No.760 of 2020
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