



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)Nos.17078 and 17881 of 2018

and W.M.P. (MD) .No.9448 of 2019

WEB COPY

Muthammal @ Muthupetchi ... Petitioner
in W.P. (MD) .No.17078 of 2018

T.Elango ... Petitioner
in W.P. (MD) .No.17881 of 2018

Vs.

1.The Secretary to the Government
Food and Co-operation and Consumer Protection Department,
St. George, Chennai.

2.The Registrar,
Co-operative Societies,
N.V.N.Natarajan Maaligai,
Kilpauk, Chennai - 10.

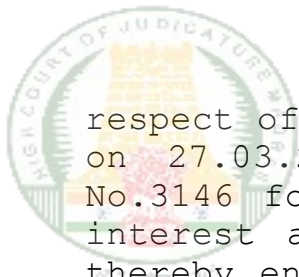
3.The Joint Registrar,
Office of the Regional Joint Registrar of Co-op Societies,
Theni Region, Theni District.

4.The Deputy Registrar,
Co-operative Societies,
Uthamapalayam Circle,
Uthamapalayam,
Theni District.

5.The Secretary,
M.D.Special 96,
Uthamapalayam Agricultural Co-operative Credit Society,
Uthamapalayam Post, Theni District.

... Respondents in both petitions.

Common Prayer: Writ petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents resulting in the 3rd respondent's impugned order dated 21.11.2016 passed in Na.Ka.No.2207/2016, bjht(1) and order of the 4th respondent dated 14.11.2016 and 25.10.2016 passed in Na.Ka.No.1216/2016 bjht(1) and quash the same and direction directing the respondents to consider the petitioners' representation, dated 29.05.2017, 02.10.2016 and 12.12.2016 respectively and consequently to waive the petitioners' agricultural loans obtained on 16.11.2006 vide Loan No.302 in



respect of her membership No.3110 for an amount of Rs.47,500/- and on 27.03.2007 vide Loan No.265 in respect of his Membership No.3146 for an amount of Rs.75,000/-, in toto together with all interest and penal interest and issue No Objection Certificates thereby enabling the petitioners to make an application for fresh loan.

WEB COPY

For Petitioners : Mr.V.R.Venkatesan
For Respondents : Mr.P.Mahendran for R1 to R4
Additional Government Pleader
Mr.M.Jayakarthish for R5
Standing Counsel
(In Both petitions)

C O M M O N O R D E R

Heard the learned counsel on either side.

2.The writ petitioners are agriculturists. They are members of the fifth respondent agricultural Co-operative Society. The petitioners applied for agricultural loan and the same was also granted. The question is whether the petitioners are entitled to the benefit of waiver introduced vide G.O.Ms.No.50 Co-operative Food and Consumer Protection (CC1) Department, dated 23.05.2016 and G.O.Ms.No.59, Co-operative Food and Consumer Protection (CC1) Department, dated 28.06.2016.

3.The grievance of the petitioners is that they have been unfairly denied the benefit of the said waiver in the order impugned, in which, it has been mentioned that since the petitioners did not lodge their objections within time, their case cannot be considered.

4.I fail to appreciate the approach adopted by the fourth respondent. The basic facts are not in dispute. The petitioners are agriculturists. The petitioners had availed loans. If the petitioners' over all land holding is within the ceiling limit, they could be given the benefit of waiver. That is the object of the aforesaid Government orders. It is not the case of the respondents that the petitioners were having land in excess of the ceiling limit. It is not so. Therefore, the petitioners ought to have been granted the benefit of waiver.

5.The learned Additional Government Pleader informed the Court that the case of the petitioners was infact considered by the committee and that it was rejected and petitioners did not lodge their objections within time.

6.I wanted to know as to why the committee declined to extend the benefit of waiver to the petitioners herein.



7.The learned Additional Government Pleader on written instructions from the fourth respondent submitted that since the petitioners did not file necessary documents, it was rejected.

8.Since the petitioners had filed such documents in the first instance, the loans were originally disbursed. Otherwise, the loans would not have been disbursed. Therefore, the reason that documents were not produced cannot be pass muster at my hands. It appears to be the baseless reason. The only ground on which the petitioners could have been denied the benefit is by establishing that their land holding crossed the ceiling limit. If that be so, onus will be on the respondents. Petitioners cannot be expected to prove the negative. They can only say they are small or marginal formers and that they did not have lands beyond 5 acres ceiling limit. Even in the present communication, the authorities have not stated that the petitioners are owning lands in excess of the ceiling limit.

9.I have no hesitation to interfere with the impugned order. It stands quashed.

10.The third and fourth respondents are directed to immediately take up the cases of the petitioners herein and forward the same to the second respondent. The second respondent is directed to issue the necessary certificate and take up the matter with the first respondent. The respondents 1 and 2 shall thereafter extend the benefit of the aforesaid Government orders to the petitioners herein. The entire exercise shall be completed within a period of 16 weeks from the date of receipt of a copy of this order.

11.These writ petitions are allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

TM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To:

- 1.The Secretary to the Government
Food and Co-operation and Consumer Protection Department,
St. George, Chennai.
- 2.The Registrar,
Co-operative Societies,
N.V.N.Natarajan Maaligai,
Kilpauk, Chennai - 10.
- 3.The Joint Registrar,
Office of the Regional Joint Registrar of Co-op Societies,
Theni Region, Theni District.
- 4.The Deputy Registrar,
Co-operative Societies,
Uthamapalayam Circle,
Uthamapalayam,
Theni District.

+1 CC to M/s.GP (SR-15440[F] dated 31/08/2020)

W.P. (MD)Nos.17078 and 17881 of 2018
28.08.2020

kg(CO)

TR(04.09.2020) 4P 6C