



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :22.07.2020**

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .Nos.1525, 1526 and 1527 of 2017
and

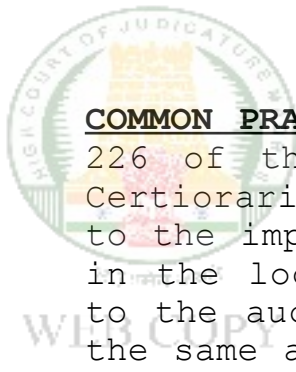
W.M.P (MD) .Nos. 1243 to 1245, 1246 to 1248 and
1249 to 1251 of 2017

1.P.S.Mohan	...Petitioner in W.P.No.1525 of 2017
2.C.Lingadurai	...Petitioner in W.P.No.1526 of 2017
3.N.Muthulakshmi	...Petitioner in W.P.No.1527 of 2017

Vs.

- 1.State of Tamil Nadu
Represented by its Secretary
Co-operative Food and Consumer Department
Secretariat
Chennai 600 009
- 2.The Registrar
Co-operative Societies
Chennai
- 3.The Joint Registrar
Office of the Joint Registrar
K.B.Road, Nagercoil -2
Kanyakumari District
- 4.The President
1918, Thalakudi Primary Agricultural
Co-operative Bank Limited
Thalakudi
Kanyakumari District
- 5.The Secretary
1918, Thalakudi Primary Agricultural
Co-operative Bank Limited
Thalakudi
Kanyakumari District

....Respondents in all the writ petitions



COMMON PRAYER: These Writ petitions have been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned advertisement issued by the 4th and 5th respondents in the local Tamil Daily "Dinathanthi" dated 25.01.2017 relating to the auction of gold jewels belonging to the petitioner, quash the same and consequently direct the 5th respondent to release the jewels of the petitioners by extending the benefit of G.O.(Ms). No.50 dated 23.05.2016 and G.O(Ms).No.59 dated 28.06.2019.

In all the writ petitions:

For Petitioners	: Mr.Niranjana S.Kumar
For R1 to R3	: Mrs.S.Srimathy Special Government Pleader Government Advocate
For R4 & R5	: Mr.C.Selvaraj

COMMON ORDER

Heard the learned counsel on either side.

2.The writ petitioners herein had availed agricultural jewel loans from the fourth respondent, Thalakudi Primary Agricultural Co-operative Bank Limited. The jewels pledged by them were brought to auction by the Society on 25.01.2017. Questioning the same, these writ petitions were filed.

3.The contention of the petitioners is that they are small farmers and the agricultural land owned by them is below 5 acres. The petitioners' counsel draws my attention to G.O.(Ms).No.50, Co-operation, Food and Consumer Protection (CC1) Department, dated 23.05.2016 issued by the Government of Tamil Nadu in which it was ordered that the outstanding Crop Loan, Medium Loan (Agriculture) Loan and Long Term (Farm Sector) Loan issued to the small and marginal farmers by the Co-operative Banks as on 31.03.2016 be waived. The Government issued yet another G.O.(Ms).No.59, Co-operation, Food and Consumer Protection (CC1) Department, dated 28.06.2016 in which guidelines have been separately issued.

4.It is seen from the annexure from the said G.O(Ms).No.59, dated 28.06.2016 that the entire agricultural loan outstanding including principal, interest and other charges in respect of small and marginal farmers as on 31.03.2016 would include the short term agricultural crop loans issued with the pledge of jewels. In other words, the waiver of agricultural jewel loans would also be extended for such farmers. The petitioners' counsel also draws my attention to the certificate issued by the concerned authorities indicating that the petitioners' agricultural lands come within the ceiling limit. In other words, the petitioners can



be certified either as marginal farmers or small farmers.

5. On the other hand, the learned counsel appearing for the Societies wanted me to go by the conditions of the application filled in by the writ petitioners at the time of obtaining jewel loans. It appears that the petitioners had also shown the leasehold lands enjoyed by them for the purpose of obtaining loan.

6. The issue is not to be determined with reference to the applications submitted by the writ petitioners. The issue has to be determined with reference to the factual decision that obtained on the date of issuance of G.O. As per the terms of G.O, the only question required for answering is the extent of actual ownership of the agricultural land by the respective writ petitioners. I have no hesitation to come to the conclusion that the petitioners are also entitled to the benefit of aforesaid G.O. This is because the respondents have not placed any material to show that the petitioners are owning lands in excess of the ceiling limit.

7. In this view of the matter, the impugned auction notification stands quashed. The respondent Societies/ respondents 4 and 5 are directed to return the jewels pledged by the respective petitioners. I hold that the petitioners are entitled to the benefit of the petition mentioned G.O.

8. The Writ petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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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

State of Tamil Nadu

Co-operative Food and Consumer Department

Secretariat, Chennai 600 009



2.The Registrar
Co-operative Societies
Chennai

3.The Joint Registrar
Office of the Joint Registrar
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5.The Secretary
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ORDER MADE IN
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and
W.M.P (MD) .Nos. 1243 to 1245, 1246 to 1248 and
1249 to 1251 of 2017
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AL(CO)
TR(29.07.2020)4P 6C