



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.(MD) No. 14272 of 2021

and

W.M.P.(MD) No.11206 of 2021

NN 555, Thanjakoor Primary Agricultural
Cooperative Bank,
Now Called as NN 555, Thanjakoor Primary Agricultural
Cooperative Credit Society,
Thro' its Secretary,
Thanjakoor,
Manamadurai Taluk,
Sivagangai District.

... Petitioner

Vs.

- 1.The Asst. P.F Commissioner/
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Madurai.
- 2.The Recovery Officer,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Madurai.
- 3.Sivagangai District Central Cooperative Bank,
Thro' its Branch Manager,
Thiruppachethi Branch,
Thiruppachethi Post,
Manamadurai Taluk,
Sivagangai District.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of **Writ of Certiorari**, to call for the records of the impugned order passed by the 2nd respondent made in No:TN/RO/MD/MDU/24912/Recovery/M-8/8F/2021 dated 15.07.2021 and

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quash the same as illegal and pass such other orders on this Court.

For Petitioner : Mr.R.Saravanan

For Respondents : Mr.K.Muralisankar,
Standing Counsel for R1 to R3.

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O R D E R

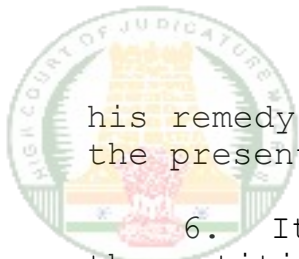
The petitioner society is a cooperative institution registered under the Tamil Nadu Cooperative Societies Act. The main object of the society is to issue agricultural loans to its members. Initially, about ten employees are engaged in the society to look after its affairs. The employees were not covered under the EPF Act. However, the petitioner applied for voluntary enrollment under the EPF Scheme under the provisions of Section 1(4) of EPF Act and the same was allowed.

2. According to the petitioner, out of 11 employees, two retired from service and due to some severe financial crisis, the society could not pay the retirement benefits to the retirees. Also, for certain period between 2012 and 2014, the petitioner could not pay the EPF contributions to the respondents in time and it was remitted only belatedly.

3. The first respondent has initiated action /s 14B and 7Q of the EPF Act to conduct hearing for the belated payment of EPF contribution. During the personal hearing, the petitioner has paid the interest amount totalling Rs.6,25,423/- and requested for waiver of damages to the tune of Rs.10,28,267/-. However, the respondent confirmed the notice amount and ordered payment of Rs.10,28,267/- as damages, vide order dated 09.10.2014. Aggrieved by the said order, the petitioner filed an appeal before the Central Government Industrial Tribunal cum EPF Appellate Tribunal, New Delhi, on 24.02.2015. The appeal was initially transferred to Bangalore and later to Chennai and renumbered as New Appeal No.75/2018. The said appeal is said to be pending. The petitioner has filed an additional affidavit stating that the appeal is posted for admission on 20.10.2021 and no interim order has been passed.

4. In the meanwhile, the second respondent has issued the impugned order under Section 8(F) of the EPF Act in TN/RO/MD/MDU/24912/Recovery/M-8/8F/2021 dated 15.07.2021 to recover the amount by attaching the bank transactions of the third respondent. According to the petitioner, this will lead to total confiscation of the amount lying in the bank and that the society will have no money to grant agricultural loans. Aggrieved by the said order, the present writ petition has been filed.

5. According to the learned Standing Counsel for the respondents, as per the rules, the petitioner is entitled to seek



his remedy before the Appellate Tribunal by way of an Appeal against the present impugned order.

6. It is found from the contention of the learned counsel for the petitioner and the additional affidavit filed by the petitioner that the petitioner has filed an appeal, challenging the order passed under Section 14 B and 7 Q of the EPF Act before the Central Government Industrial Tribunal cum EPF Appellate Tribunal, Chennai. The said appeal filed by the petitioner is pending before the said Appellate Tribunal. The petitioner has also stated in its additional affidavit that he has filed an interim petition seeking interim stay against the first respondent's order and no interim was granted and the appeal is coming up for admission on 20.10.2021. Therefore, this Court cannot entertain this Writ Petition in view of the pendency of the appeal before the Appellate Tribunal. The petitioner has approached this Court, when a remedy is available before the Appellate Tribunal, which is not maintainable. Therefore, the recovery proceedings challenged before the Court cannot be entertained. Consequently, the Writ Petition is dismissed. The petitioner is given liberty to seek his remedy before the Appellate Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mnr

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 Asst. P.F Commissioner/
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road, Madurai.
- 2.The Recovery Officer,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road, Madurai.



3.The Branch Manager,
Sivagangai District Central Cooperative Bank,
Thiruppachethi Branch,
Thiruppachethi Post,
Manamadurai Taluk, Sivagangai District.

+1 CC to M/s.K.MURALI SANKAR, Advocate (SR-27682[F] dated 31/08/2021)

+1 CC to M/s.R.SARAVANAN, Advocate (SR-27701[F] dated 31/08/2021)

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RK (02/11/2021) 4P 6C