



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.11.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.[MD].No.21209 of 2021

W.M.P.[MD].Nos.17794 & 17796 of 2021

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N.Muthulakshmi

... Petitioner

Vs.

1.The Deputy Registrar,
Co-operative Societies,
Karaikudi,
Sivagangai District.

2.The President/Secretary,
Q-727, Karaikudi Municipal
Superior Employees Thrift and Credit Cooperative Society,
Karaikudi,
Sivagangai District.

3.The Commissioner,
Devakottai Municipality,
Sivagangai District.

...Respondents

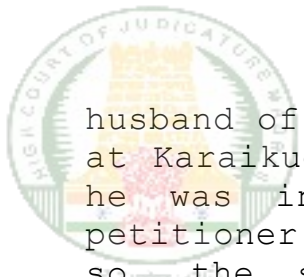
PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent vide his proceedings in **நி.ம.20/2014/சுப(3)** dated 30.09.2021 and consequential impugned order passed by the second respondent vide his proceedings Nil dated 22.10.2021.

For Petitioner : Mr.Mohamed Imran
for Ajmal Associates
For Respondents : Mr.S.Shaji Bino
Special Government Pleader
for RR1 & 2
Mr.J.Anand Kumar for R3

ORDER

This Writ Petition has been filed as against the proceedings of the first respondent and the consequential impugned order passed by the second respondent.

<https://hcservices.courts.gov.in/hcservices> 2. The learned counsel for the petitioner submits that the



husband of the petitioner was appointed as Driver in the year 2008 at Karaikudi Municipality and he passed away on 03.08.2010, while he was in service. Thereafter, on compassionate ground, the petitioner was appointed as Junior Assistant on 29.04.2013. While so, the second respondent intimated the petitioner that her husband availed a loan for a sum of Rs.1,61,533/-, which was not re-paid. Therefore, the petitioner has made a representation to the second respondent requesting him to furnish the details of the loan, but, he refused to furnish the details. Meanwhile, on 30.09.2021, the Deputy Registrar, Cooperative Societies, Karaikudi/first respondent herein vide proceedings in epk.20/2014/rg(3) dated 30.09.2021 recommended the third respondent to initiate the recovery proceedings against the petitioner. Subsequently, the second respondent has passed the consequential impugned order dated 22.10.2021. In fact, the impugned orders have been passed without hearing the petitioner, that too, after a delay of more than 13 years. As per Section 60 (1)(ia) of CPC, only one-third of salary could be attached. But, on perusal of the impugned orders, it reveal that the recovery amount is more than two-third of the petitioner's salary. Therefore, the impugned orders of recovery are unsustainable and against the Section 60 of CPC

3. Mr.S.Shaji Bino, learned Special Government Pleader takes notice for the respondent Nos.1 and 2 and submits that the orders impugned in this writ petition are internal correspondence between the second and third respondents and the petitioner was already provided with a show cause notice. However, she failed to submit her explanation to the show cause notice. Hence, the writ petition itself is at the pre-mature stage.

4. It appears that the orders impugned are internal communications between the second and third respondents and the petitioner has not offered any explanation to the show cause notice issued in Form No.12. Therefore, subsequent impugned proceedings came to be passed by the second respondent. However, without providing any opportunity to the petitioner, the respondents have passed the impugned orders. Hence, the orders passed by the first respondent vide proceedings in epk.20/2014/rg (3) dated 30.09.2021 and the second respondent dated 22.10.2021 are set aside. The matter is remitted back to the respondents to provide an opportunity to the petitioner to offer her explanation to the show cause notice issued in Form No.12 dated 30.09.2021 and the respondents shall also consider the ground raised by the petitioner that 2/3 of her salary has been attached in the impugned order passed by the second respondent and pass orders within a period of four weeks from the date of receipt of a copy of this order.



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5. Accordingly, this Writ Petition is disposed. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS III)

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/ /2021

Sub Assistant Registrar (CS)

ssb

To

1.The Deputy Registrar,
Co-operative Societies,
Karaikudi,
Sivagangai District.

2.The President/Secretary,
Q-727, Karaikudi Municipal
Superior Employees Thrift and Credit Cooperative Society,
Karaikudi,
Sivagangai District.

3.The Commissioner,
Devakottai Municipality,
Sivagangai District.

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-36428[F] dated 29/11/2021)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-36577[F] dated
30/11/2021)

+1 CC to M/s.SPL GP (SR-36509[F] dated 30/11/2021)

**W.P. [MD] .No.21209 of 2021
29.11.2021**

NSN (CO)

SB(28.12.2021) 3P 7C