



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.1284 of 2022

S.M.86, The Mettur Tansi, Tamin & Municipal
Employees Co-operative Thrift and Credit Society Ltd,
Rep by its Secretary,
M.P.Gunasekar
S/o.Perumal
Door No.9/6, Sakunthala Complex,
East main Road,
Mettur Dam, Salem District.

...Petitioner

Vs.

1. The Director,
Municipal Administrative Department,
No.78, Administrative Building,
Santhome High way Road,
Chennai - 600 028.
2. The Regional Director,
Municipal Administrative Office,
Arisipalayam Village & Post,
Salem District - 636 009.
3. The Commissioner,
Mettur Municipality,
Mettur Dam & Taluk,
Salem District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to consider the claim of the petitioner with regards to payable of loans Recovery dues amount Rs.57,83,203/- (Fifty Seven Lakhs and Eighty Three thousand two hundred and three) by considering the petitioner representation dated 16.12.2021.

For Petitioner : Mr.G.Punniakoti

For R1 and R2 : Mrs.V.YamunaDevi
Special Government Pleader

For R3 : M/s.L.P.Maurya
Standing Counsel



O R D E R

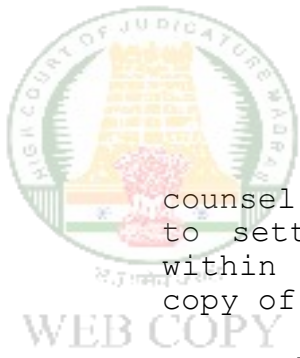
The Writ of Mandamus has been instituted by the petitioner Co-operative Society to consider the claim of the petitioner with regards to payable of loans Recovery dues amount Rs.57,83,203/- (Fifty Seven Lakhs and Eighty Three thousand two hundred and three) collected from the employees of he 3rd respondent Municipality.

2. The petitioner is a Co-operative Society registered under The provisions of the Tamil Nadu Co-operatives Societies Act. The Society was registered for the welfare of the employees working in the Municipality. Therefore, many number of employees of the 3rd respondent Municipality are the members of the Society and from and out of their contribution, the society is functioning.

3. The society is granting loans to its members and an agreement was entered into between the parties and under Section 48 of the Tamil Nadu Co-operative Societies Act, the employer/ Disbursing Officer once undertook that he will recover the salary and repay the loan amount to the Society. Such an undertaking is binding on the employer/ Disbursing Officer and in the event of non-payment it is to be construed that the funds collected from the employees are temporarily misappropriated. It is a punishable offence even under the Tamil Nadu Co-operative Societies Act. Once the loan dues are collected from the employees, more specifically, from their salary, immediately it must be deposited in the accounts of the society, failing which, the Municipality is committing an offence and further, it is to be construed as misappropriation for all purposes. Such a conduct of the Municipality is impermissible under law. When the law provides a mechanism for the purpose of recovery of loan dues and when the competent authorities of the Municipality has agreed for the terms and conditions, then they have to act as per the terms and conditions which is statutorily created, more specifically, under the Tamil Nadu Co-operative Societies Act. Thus, the 3rd respondent is bound to repay the recovered loan dues then and there without any default.

4. In the present case, the learned counsel for the petitioner made a submission that though the loan dues were already recovered from the employees of the Municipality, the said amount has not been deposited in the accounts of the Society. Thus, the present writ petition is filed. Several request made by the society also went in vein.

5. The learned counsel appearing on behalf of the 3rd respondent contended that due to financial constrain, the Municipality is unable to pay immediately and they are ready and willing to settle the amount within a period of three months.



6. In view of the submissions made by the learned counsel for the 3rd respondent, the 3rd respondent is directed to settle the entire amount due to the petitioner society within a period of three months from the date of receipt of a copy of this order.

7. With these directions, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Jeni/Cse

To

1. The Director,
Municipal Administrative Department,
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2. The Regional Director,
Municipal Administrative Office,
Arisipalayam Village & Post,
Salem District - 636 009.
3. The Commissioner,
Mettur Municipality,
Mettur Dam & Taluk,
Salem District.

+lcc to Mr.G.Punniakoti, Advocate SR. No.5968
+lcc to M/s.L.P.Maurya, Advocate SR. No.6716
+lcc to Government Pleader SR. No.6434

W.P.No.1284 of 2022

RK (CO)
PR (11/02/2022)