



WEB COPY



W.P.Nos.20747 & 20748 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.20747 & 20748 of 2017

P.G.Amarnath

...Petitioner
in W.P.No.20747 of 2017

T.Santhi

...Petitioner
in W.P.No.20748 of 2017

Vs.

1.M/s.State Express Transport Corporation Ltd.,
Rep. by its Managing Director,
No.2 Pallavan Salai,
Chennai – 600 002.

2.M/s.Tiruvalluvar Transport Corporation,
Co-operative Credit Society,
Rep. by its Secretary,
No.10, 23rd Street,
Jai Nagar, Arumbakkam,
Chennai – 106.

3.T.Radha

Respondents
in both W.Ps

Prayer in 20747 of 2017: Writ Petition filed Under Article 226 of the
Constitution of India, to issue a writ of Mandamus, directing the 1st respondent to



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recover a sum of Rs.1,62,251/- from the terminal benefits of the 3rd respondent and pay the same to the petitioner and also to restrain the 2nd respondent to make further recovery from salary of the petitioner by considering the representation of the petitioner dated 01.07.2017.

Prayer in 20748 of 2017: Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the 1st respondent to recover a sum of Rs.1,65,281/- from the terminal benefits of the 3rd respondent and pay the same to the petitioner and also to restrain the 2nd respondent to make further recovery from salary of the petitioner by considering the representation of the petitioner dated 01.07.2017.

For Petitioner
in both W.Ps

: Mr.D.Soundar Raj

For Respondents
in both W.Ps

: Mr.S.Sivasubramani for R1

Mr.G.Murali for R2

R3-Not Ready in Notice



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ORDER

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The petitioners are guarantor and workmen in the State Transport Corporation Limited. The grievances of the writ petitioners are that the 3rd respondent borrowed a loan from the 2nd respondent Co-operative Credit Society and not repaid the loan amount. Thus, the loan dues were recovered from the salary of the writ petitioners as they were a guarantor. Under these circumstances, the petitioners state that the dues paid by them in respect of the loan availed by the 3rd respondent is to be recovered from the terminal benefits of the 3rd respondent paid by him. Such a procedure as mooted out by the petitioner is unknown to law. The corporation cannot directly recover the dues from the employee in respect of the loan availed from the Cooperative Societies.

2. The Co-operative Societies is registered under the provisions of the Co-operative Societies Act. In the present case, the 2nd respondent is a multi-state Co-operative Society and the Central Act would be applicable. As per the said Act, the petitioner and the 3rd respondent being the members have to adjudicate the issues before the competent authority by instituting a suit and the competent authority to entertain dispute between the members, have to adjudicate and pass a decree.



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Then, such a decree is to be executed in the manner contemplated and therefore, it is not as if the 1st respondent can directly recover the entire amount from the terminal benefits of the 3rd respondent and settle the same to the petitioners and such a procedure is in violation of the provisions of the Co-operative Societies Act. More so, the 1st respondent is no way connected with the administrative affairs of the 2nd respondent Co-operative Society which is an independent Society registered under the Act and therefore, the procedures as contemplated under the provisions of the Co-operative Societies Act is to be followed for the purpose recovery of the amount paid by the writ petitioners in order to settle the loan borrowed by the 3rd respondent. Thus, the petitioners are at liberty to exhaust the remedy by following the procedures as contemplated.

3. Accordingly, this writ petition stands disposed of. No Costs.

25.11.2022

Index : Yes
Internet : Yes
Speaking order : Yes
SSR



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To
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The Managing Director,
M/s.State Express Transport Corporation Ltd.,
No.2 Pallavan Salai,
Chennai – 600 002.



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S.M.SUBRAMANIAM, J.

SSR

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