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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.28241 of 2021

S.Albert Sundararaj

.. Petitioner

Vs.

1. The Registrar of Cooperatives,
E.V.R. Periyar Salai,
Kilpauk,
Chennai 600 010.
2. The Deputy Registrar of Cooperative Societies,
Office of Deputy Registrar of Cooperative Societies,
Krishnagiri Region,
13, 4th Street, West Joint Road,
Cooperative Quarters,
Krishnagiri 635 001.
3. The Joint Registrar of Cooperative Societies,
Office of Deputy Registrar of Cooperative Societies,
Krishnagiri Region,
13, 4th Street, West Joint Road,
Cooperative Quarters,
Krishnagiri 635 001.
4. The Secretary,
D.K.94, Krishnagiri Panchayat Union Teachers and
Workers Cooperative Thrift & Credit Society (Ltd),
Cooperative Colony, 1st Cross,
Krishnagiri 635 001.
5. The President/Secretary,
D.K.94, Krishnagiri Panchayat Union Teachers and
Workers Cooperative Thrift & Credit Society (Ltd),
Krishnagiri.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the rejection of petitioner representation dated 26.12.2019 by the 4th respondent through his communication dated 22.11.2021 and



quash the same, consequently, issue direction, directing the 4th respondent to return the insurance claim amount of petitioner's wife I. Angela Mary which was obtained at the time of sanctioning the loan in favour of petitioner's wife, failing which direct the 4th respondent to return the amount paid by the petitioner to the tune of Rs.6,41,500/- by considering petitioner's representation dated 26.12.2019.

For Petitioner : Mr.R.Marudhachalamurthy
For RR1 to 3 : Mr.U.Baranidharan
(Additional Government Pleader)
For R4 : Mr.P.Ganesan
For R5 : Mr.A.Selvendran
(Special Government Pleader)

O R D E R

This Writ Petition is filed by the petitioner challenging the impugned communication of the 4th respondent dated 22.11.2021 and consequently, to consider the representation of the petitioner dated 26.12.2019.

2. According to the petitioner, his wife I. Angela Mary is a member of the 4th respondent Society. She used to borrow money from 4th respondent Society and repay the same without fail. On 13.06.2017, she borrowed a sum of Rs.7,00,000/- from the 4th respondent Society. Subsequently, she died on 22.04.2018. The 4th respondent has to follow the Act and Rules and the circular issued by the 1st respondent while sanctioning the loan. After death of his wife, the 4th respondent asked the petitioner to pay the outstanding amount and close the loan. The petitioner requested the 4th respondent to close the loan by way of insurance claim as 4th respondent obtained policy in the name of the petitioner's wife for sanctioning the loan. But, however, the Secretary of the 4th respondent asked the petitioner to settle the loan amount and assured that he will claim the insurance amount and settle the same in favour of the petitioner. Believing the same, the petitioner settled the outstanding amount of Rs.6,41,500/- in favour of the 4th respondent, but the 4th respondent did not keep up his words. Hence, the petitioner sent representation to the 1st respondent and also to the respondents 2 and 3 and filed W.P.No.19154 of 2020. The said Writ Petition is pending. While the Writ Petition is pending, the 4th respondent erroneously rejected the representation of the petitioner. Hence, the petitioner has come



out with the present Writ Petition, challenging the said rejection order.

3.The learned counsel appearing for the petitioner submitted that order of the 4th respondent, without hearing the petitioner, is arbitrary. As per the circular No.27/2014 dated 28.10.2014 issued by the 1st respondent sent to all the Cooperative Societies, direction has been given to all the Cooperative Societies to take insurance at the time of sanctioning loan. Therefore, the 1st respondent is liable to claim the insurance amounts and settle the same to the petitioner and hence, prayed for setting aside the order of the 4th respondent.

4(i).The respondents 2 and 4 filed separate counter affidavits and denied all the averments made by the petitioner. Mr.U.Baranidharan, learned Additional Government Pleader appearing for the respondents 1 to 3, Mr.P.Ganesan, learned counsel appearing for the 4th respondent as well as Mr.A.Selvendran, learned Special Government Pleader appearing for the 5th respondent separately submitted that even though the Writ Petition filed by the petitioner was pending, the 4th respondent considered the representation of the petitioner and passed orders on merits. The learned Special Government Pleader further submitted that when the circular of 1st respondent was received by the Society, it was discussed with the members of the Society. Most of the members were not willing to take group insurance as they have to pay substantial premium, which will be deducted from their account. The 4th respondent Society did not take any insurance at the time of sanctioning the loan as members were not willing to pay the premium. Subsequently, taking the insurance by members was made optional at the request of the members. The petitioner's wife did not opt for taking insurance and no insurance was taken in the name of the petitioner's wife. The Secretary denied having given any assurance to claim the insurance amount as there was no insurance taken in the name of the petitioner's wife.

4(ii).The learned Special Government Pleader further submitted that the Writ Petition filed challenging the order of the Cooperative Society is not maintainable and remedy available to the petitioner is only to raise arbitration proceedings under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983 (hereinafter referred to as, 'the Act'). In the impugned order of the 4th respondent itself, the 4th respondent has stated that the petitioner can raise dispute under Section 90 of the Act, if he is aggrieved and prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioner, learned Additional Government Pleader appearing for the



respondents 1 to 3, learned counsel appearing for the 4th respondent as well as the learned Special Government Pleader appearing for the 5th respondent and perused all the materials available on record.

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6. The learned Special Government Pleader has taken the objection to the maintainability of the Writ Petition as impugned order passed by 4th respondent Society and as per the Full Bench judgment of this Court reported in 2006 (4) CTC 689 [K.Marappan Vs. Deputy Registrar of Cooperative Societies, Namakkal], the petitioner is not entitled to invoke writ jurisdiction of relief sought for in the Writ Petition. The said contention has considerable force and is acceptable. In addition to the same, the Writ Petition is not maintainable on merits also. It is the case of the petitioner that when his wife took loan from the 4th respondent, the 4th respondent has taken insurance policy as per the circular No.27/2014 of the 1st respondent and the Secretary of the 4th respondent assured the petitioner that the 4th respondent can claim the insurance amount from the insurance company and pay it to the petitioner. On the other hand, it is the case of the 4th respondent and learned Special Government Pleader appearing for the 5th respondent that most of the members of the 4th respondent were not willing to take insurance for the amounts borrowed by them and they were not willing to pay the premium for the insurance policy. According to the respondents, the petitioner's wife did not opt for insurance for the amounts borrowed by her and no premium was paid by her. The 4th respondent also denied the claim of the petitioner that the Secretary of the Society assured him that Society will claim insurance amount from the insurance company and pay to the petitioner. According to the 4th respondent, when there is no insurance policy taken by wife of the petitioner, the Secretary did not assure the petitioner to claim the insurance amount and pay to him. From the above materials, it is seen that there are rival contentions with regard to insurance policy. When the petitioner claims that the insurance policy was taken when his wife borrowed money, it is for the petitioner to prove the said contention by filing documents and raise the dispute under Section 90 of the Act for redressal of his grievances. Hence, the Writ Petition is not maintainable even on merits.

In the result, the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar

gsa



To

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Workers Cooperative Thrift & Credit Society (Ltd),
Krishnagiri.

+1cc to M/s.Marudhachalamurthy, Advocate, S.R.No.29604

+1cc to Mr.P.Ganesan, Advocate, S.R.No.29019

+1cc to the Government Pleader, S.R.No.29381

W.P.No.28241 of 2021

AD(CO)
SU(25/05/2022)