



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.3583 of 2017

R.Ammavasi

... Petitioner

/vs./

1.The Joint Registrar of Co-operative Societies,
Chinna Chokkukulam, Madurai -2.

2.The Deputy Registrar of Co-operative Societies,
Usilampatty Circle at Thirumangalam,
Madurai District.

3.The President,
M.D.Spl. 28, Melathirumanickam Primary Agricultural
Co-operative Credit Society,
Melathirumanickam Post,
Elumalai (Via) Peraiyur Taluk,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records connected with the impugned order passed by the 2nd respondent dated 09.09.2016, which was confirmed by the 1st respondent in Na.Ka.No.2784/2016/tho.Va dated 17.09.2016 and quash the same and consequently direct the respondents to pass orders allowing Waiver of Crop Loan along with interest of Rs.60,117/- and for refund of the same, which was paid by the petitioner on 18.10.2016.

For Petitioner : Mr.S.Govindan

For R1 & R2 : Mr.M.Senthil Ayyanar
Government Advocate

For R3 : Mr.R.Saravanan

ORDER

Heard the learned counsel for the writ petitioner, learned Government Advocate for the respondents 1 and 2 and the learned counsel for the 3rd respondent.

2.The writ petitioner is an agriculturist. He approached the 3rd respondent and availed a sum of Rs.57,000/- as crop loan in the year 2016. He repaid the amount. However, the stand of the petitioner is that he is entitled to the benefit of waiver announced by the



Government under G.O.(Ms) No.59, Cooperation, Food and Consumer Protection (CC1) Department, dated 28.06.2016. The petitioner approached the 3rd respondent and sought refund of the amount paid by him.

3.The 3rd respondent took the stand that the benefit of waiver will be applicable only if the petitioner owned lands less than 5 acres. According to the Creditor Society, the petitioner is owning 5 acres and 48 cents and therefore, the petitioner's request for refund of the amount was rejected. Questioning the rejection order dated 17.09.2016, the writ petition came to be filed.

4.The learned counsel appearing for the writ petitioner reiterated the contentions set out in the affidavit filed in support of this writ petition and called upon this Court to quash the impugned order and allow the writ petition.

5.*Per contra*, learned counsel for the 3rd respondent submitted that since the petitioner is not eligible to get the benefit of waiver, the writ petition deserves to be dismissed.

6.I carefully considered the rival contentions and went through the materials enclosed in the typed set of papers.

7.The petitioner along with 5 others is having ownership over 5 acres and 48 cents as seen from patta No.19/38. The petitioner is not having an exclusive ownership or title over 5 acres and 48 cents. He is one of the six joint pattadhars. Therefore, the petitioner will have right of the ownership only over 1/6th of 5 acres and 48 cents. Seen in that angle, the petitioner is obviously entitled to the benefit of waiver and that has not been taken note of by the 3rd respondent.

8.The 2nd respondent has proceeded on the footing that the petitioner is owning the entire 5 acres and 48 cents. On facts, that is not so. Since the 2nd respondent has misconstrued the materials placed by the petitioner, the impugned rejection order is liable to be set aside. It is accordingly set aside. The respondents are directed to refund the amount of Rs.60,117/- paid by the petitioner with 6% interest.

9.The writ petition is allowed, accordingly. No costs.

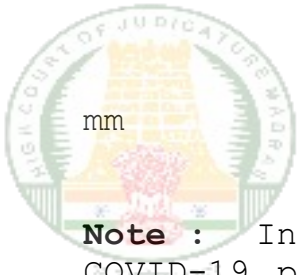
Sd/-

Assistant Registrar(Records)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)



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 Joint Registrar of Co-operative Societies,
Chinna Chokkukulam,
Madurai -2.

2.The Deputy Registrar of Co-operative Societies,
Usilampatty Circle at Thirumangalam,
Madurai District.

+1 CC to M/s.R.SARAVANAN, Advocate (SR-25019[F] dated 10/06/2022)

W.P. (MD) No.3583 of 2017
09.06.2022

sb(CO)
TR(22.06.2022) 3P 4C