



W.P(MD)No.20337 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.07.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.20337 of 2016

and

W.M.P(MD)No.14539 of 2016

S.Sathadevi

... Petitioner

Vs.

1.The Joint Registrar/Managing Director,
Sivagangai District Central CO-operative Bank,
Sivagangai.

2.The Deputy Registrar of Co-operative Societies,
Department of Co-operation,
Sivagangai,
Sivagangai District.

3.The Secretary,
N.N.547 Thiruppuvanam Farmers Service
Co-operative Credit Society Limited,
Thiruppuvanam,
Sivagangai District.

4.The Assistant Director,
Department of Animal Husbandry,
Sivagangai,
Sivagangai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to



W.P(MD)No.20337 of 2016

call for the records of the third respondent in proceedings No.Nil dated 20.09.2016 and the consequential order passed by him to return the subsidy amount dated 20.09.2016 and quash the same are illegal and arbitrary and further to direct third respondent to disburse the loan amount as per his sanctioning order dated 21.11.2015.

For Petitioner : M/S.PNSSM.Ammar

For R2 & R4 : Mr.P.Thilak Kumar
Government Pleader
for Mr.M.Ramesh
Government Advocate

For R1 & R3 : Mr.D.Shanmugaraja Sethupathi

ORDER

The present writ petition has been filed seeking to quash the order passed by the third respondent herein, under which, the loan sanction order was cancelled and the petitioner was directed to get his mortgage property released.

2. According to the writ petitioner, he had applied for a loan for starting a Chicken Farm from the third respondent herein. The loan was sanctioned by the third respondent by his order, dated 21.11.2015. As per the conditions in the said sanctioned order, the cheque would be

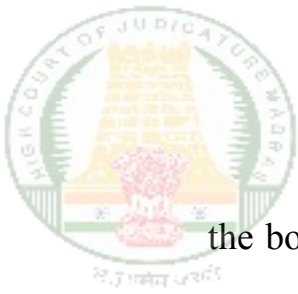


W.P(MD)No.20337 of 2016

issued only in favour of the company, which is supplying the infrastructure materials for the said Chicken Farm.

3. Accordingly, the Bank has also disbursed the amount by way of a cheque in the name of the company. The said company has returned the cheque to the Bank, requesting the Bank to issue the cheque in the name of the writ petitioner, who is the borrower. This was not acceptable to the third respondent Co-operative Bank, in view of the condition imposed in the sanctioned order. Hence, the third respondent has sent the impugned communication on 20.09.2016, stating that they are not ready to disburse the loan in the name of the borrower. The petitioner was at liberty to get release of the properties that were mortgaged as security to the third respondent Bank. The said order is under challenge in the present writ petition.

4. According to the learned Counsel for the petitioner, the Bank has issued the cheque in favour of the company for the entire amount and hence, he has objected for the same. However, the learned Counsel for the third respondent has pointed out that the company has returned the cheque stating that the cheque may be issued in the name of



W.P(MD)No.20337 of 2016

the borrower. The petitioner has also insisted that the cheque should be issued in his own name and not in the name of the company, which is supplying the infrastructure materials. Since the request of the petitioner was not in tune with the sanctioned order, the impugned order came to be passed, directing the petitioner to get the mortgage released and thereafter, the third respondent has cancelled the loan, which was already sanctioned.

5. I have carefully considered the submissions made on either side

6. Always a loan is being sanctioned based upon the request made by the borrower subject to the conditions that are incorporated in the sanctioned order. As per the sanctioned order, it is very clear that the loan amount will be issued by way of cheque only in the name of the company, which is going to supply the infrastructure materials. However, the company, probably at the request of the petitioner, had returned the cheque to the Bank requesting the Bank to issue the cheque directly in the name of the borrower. The borrower has also requested that the cheque shall be issued only in his name. Since the request of the



W.P(MD)No.20337 of 2016

company as well the writ petitioner were not in tune with the sanction order, the third respondent has chosen to cancel the sanction order and released the mortgage. The capital share that was deposited by the writ petitioner has already been reimbursed to the petitioner by way of a cheque and he has also received the same. The mortgage has also been released in favour of the petitioner. Hence, I find that there is no infirmity or illegality in the impugned order.

7. With the above said observations, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.07.2022

Index : Yes / No
Internet : Yes / No
jbr

To

1.The Deputy Registrar of Co-operative Societies,
Department of Co-operation,
Sivagangai,
Sivagangai District.

2.The Assistant Director,
Department of Animal Husbandry,
Sivagangai,
Sivagangai District.



WEB COPY



W.P(MD)No.20337 of 2016

R.VIJAYAKUMAR ,J.

jbr

Order made in
W.P(MD)No.20337 of 2016

Dated:
22.07.2022