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WP Nos.22025 & 22029 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Petition Nos. 22025 & 22029 of 2019
and
WMP.Nos.22104 & 22106 of 2022

S. Savithri .. Petitioner in WP.No.22025 of 2019

P.V. Srinivasan .. Petitioner in WP.No.22029 of 2019

Versus

1. Coonoor Co-Operative Urban Bank Ltd,
K 1899 Coonoor - 643102,
The Nilgiris.
 2. The Deputy Registrar of Co-Operative Societies,
Finger Post, Udhagamandalam,
The Nilgiris.
 3. The Joint Registrar of Co-Operative Societies,
Finger Post, Udhagamandalam,
The Nilgiris.
 4. Government of Tamil Nadu,
Rep.by its Secretary,
Co-operation, Food and Consumer
Protection Department,
Secretariat, Chennai - 600 009.
- .. Respondents in both WPs



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Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents, particularly the respondent No.3, to forward the petitioner's representation dated 05.12.2018 to the respondent No.4 for considering the request for One Time Settlement of Loan Nos.102102 and 102103 with the first respondent by waiving interest and penalty and consequently direct the respondent No.4 to consider the same.

For Petitioner : Mr. P.K. Rajagopal
in both the Writ Petitions

For R1 : Mr. R. Balaramesh
in both the Writ Petitions

For R2 to R4 : Mr. A. Selvendran,
Special Government Pleader
in both the Writ Petitions

COMMON ORDER

(Order of the Court was made by R. MAHADEVAN, J.)

These writ petitions have been filed by the petitioners seeking to issue a Writ of Mandamus directing the third respondent to forward their representation dated 05.12.2018 to the fourth respondent for considering the request for One Time Settlement of Loan Nos.102102 and 102103 with the first respondent by waiving interest and penalty and consequently direct the fourth respondent to consider the same.

2. According to the petitioners, they have borrowed a sum of Rs.5 lakhs each on 27.09.2000 vide loan account Nos.ML0102 and ML0103



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respectively from the first respondent for the purpose of doing business. As a condition precedent for grant of loan, the properties owned by them were given as security. However, due to unprecedented business loss, they have closed their business and incurred a lot of private debts. At this stage, the creditors including the first respondent bank demanded for repayment. While so, the petitioners were constrained to file Insolvency petitions Nos.3 and 4 of 2003 before the Subordinate Judge, Tirupur in which the first respondent bank was also impleaded as respondent No.43. During the pendency of the Insolvency petitions, the first respondent bank filed arbitration proceeding and obtained award in their favour and this led to initiating auction sale of the properties offered as security. When an auction was conducted, even the proposed buyers backed out for various reasons. As far as the petitioners are concerned, the interest and penalty projected by the respondents-bank is Rs.13,40,000/-. However, now, they demanded a sum of Rs.17,81,375/- and Rs.17,90,012/- respectively for each loan as on 23.10.2018 and refused to waive compound interest and penalty. In those circumstances, the petitioners submitted a representation dated 05.12.2018 to the third respondent requesting to consider one time settlement by waiving interest and penalty. On receipt of the same, the third respondent, by a communication dated 25.02.2019, directed the petitioners to pay the entire dues as calculated by the bank by stating that



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he does not have power to accept one Time Settlement unless the state Government passes an order approving the same. The third respondent also refused to forward the representation of the petitioners to the fourth respondent, and kept it pending without any consideration till date. Finding no other option, they have come up with these writ petitions for the aforesaid relief.

3. The learned counsel for the petitioners submitted that it would suffice, if a direction is given to the third respondent to forward the petitioner's representation dated 05.12.2018 to the fourth respondent bank, within a time frame to be stipulated by this Court, for which, the learned Special Government Pleader for the respondents 2 to 4 has no serious objection.

4. Considering the limited nature of the relief sought herein, this court, without going into the merits of the case, directs the third respondent to forward the petitioner's representation dated 05.12.2018 to the fourth respondent, if not forwarded earlier, within a period of two weeks from today. On receipt of the same, the fourth respondent is directed to consider the representation dated 05.12.2018 of the petitioners and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of hearing



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to them, within a period of eight weeks from the date of receipt of a copy of the representation received from the third respondent.

5. With the aforesaid direction, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[R.M.D., J.] [M.S.Q., J.]
06.03.2023

Index : Yes / No
Internet : Yes / No
av/rsh

To

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2. The Deputy Registrar of Co-Operative Societies,
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The Nilgiris.
3. The Joint Registrar of Co-Operative Societies,
Finger Post, Udhagamandalam,
The Nilgiris.
4. The Secretary,
Government of Tamil Nadu,
Co-operation, Food and Consumer
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