



W.P.(MD)Nos.6067, 6119 to 6140 and 6278 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 03.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

W.P.(MD)Nos.6067, 6119 to 6140 and 6278 of 2009

W.P.(MD)No.6067 of 2009

St.Joseph School for the Blind,
Through Sr.Benilda Mary, Superior,
St.Joseph School for the Blind,
Paravai, Madurai-07.

... Petitioner

Vs.

1.The Liquidator,
A28, Madurai Urban Co-op Bank Ltd.,
Madurai.

2.The Joint Registrar,
Co-op Societies, Madurai.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to discharge the liabilities by way of honoring the petitioner's deposits and pay the amount of Rs.2,08,135/ with interest till the date of payment from the funds available with him.



WEB COPY



W.P.(MD)Nos.6067, 6119 to 6140 and 6278 of 2009

For Petitioner : No Appearance
For R1 : Mr.T.Lajapathi Roy, Senior Counsel
For R2 : Mr.N.Satheesh Kumar,
Additional Government Pleader

COMMON ORDER

(Order of the Court was made by ***S.M.SUBRAMANIAM, J.***)

The Writ Petitions on hand have been instituted to direct the respondents to discharge the liabilities by honoring the deposits made by the petitioners in A28, Madurai Urban Co-operative Bank Limited, Madurai.

2.The Madurai Urban Co-operative Bank is a Co-operative Society registered under the provisions of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the Act'). The Bank is not funded by the Government or its instrument and thus, not a State within the meaning of Article 12 of Constitution of India. The Bank mobilizes funds from its members and it is running for the welfare of its members. However, the Bank is governed by the banking regulations including RBI circulars. While so, on account of certain irregularities committed by the erstwhile management, the Society has gone into liquidation and not in a position to repay the deposits made by its members.



W.P.(MD)Nos.6067, 6119 to 6140 and 6278 of 2009

WEB COPY

3.The rights of the members of the Bank vest under the provisions of the Act and there are efficacious mechanism under the Act to recover the dues by following the procedures. This exactly is the reason why the High Court and the Hon'ble Apex Court reiterated that no Writ is entertainable against Co-operative Society, which is not a State within the meaning of Article 12 of Constitution of India.

4.The learned Senior Counsel appearing for the 1st respondent has made a submission that this Court earlier passed an interim order and pursuant to the said interim order, 70% of the claims have already been settled and the remaining claims are unable to be settled on account of certain issues, which are all pending either before the Courts or otherwise. More so, the Bank has to recover the dues from its borrowers and actions under SARFAESI Act have already been initiated for the purpose of recovering the dues and to settle the claims of the depositors.

5.Under these circumstances, this Court is of the considered opinion that the aggrieved depositors / creditors are at liberty to workout their remedy either under the provisions of SARFAESI Act or under the provisions of the Tamil Nadu



W.P.(MD)Nos.6067, 6119 to 6140 and 6278 of 2009

Co-operative Societies Act, 1983 or by approaching any other competent forum for the purpose of redressal of their grievances. Keeping these Writ Petitions pending would do no service to the cause of justice, as already 14 years lapsed and 70% of the claims have already settled and balance claims are to be settled only after recovering dues from the borrowers, which should be done as expeditiously as possible by following the procedures.

6.With these observations, these Writ Petitions are disposed of. No costs.

(S.M.S., J.) & (R.K.M., J.)

03.11.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Yuva

To
The Joint Registrar,
Co-op Societies, Madurai.



WEB COPY



W.P.(MD)Nos.6067, 6119 to 6140 and 6278 of 2009

S.M.SUBRAMANIAM, J.

AND

R. KALAIMATHI, J.

Yuva

W.P.(MD)Nos.6067, 6119 to 6140 and 6278 of 2009

03.11.2023