



W.P.(MD)No.20687 of 2017

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 19.06.2023**

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD)Nos.10296 of 2013 & 21741 of 2016**

**and**

**W.M.P(MD)No.15541 of 2016**

**W.P.(MD)Nos.10296 of 2013**

Administrator,

Vallanaadu Primary Agriculture Co-Operative Society,

Vallannadu,

Tuticorin District

... Petitioner

Vs.

1. S.Rajammal

2. The Presiding Officer,

Labour Court,

Tirunelveli.

... Respondents

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a *writ of Certiorari* or any other appropriate writ or direction, to call for the orders passed by 2<sup>nd</sup> Respondent in C.P. NO. 63 of 2010, dated 14.05.2012 and to quash the same and thereby render justice.



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For Petitioner : Mr.K.R.Laxman  
For R-1 : No Appearance  
R-3 : Court

**W.P.(MD)No. 21741 of 2016**

The Managing Director,  
Thoothukudi District Central Cooperative Bank Ltd.,  
109/5d, Ettayapuram Road, Polpettai,  
Thoothukudi.

...

Petitioner

Vs.

1. S.Rajammal

2. The Management,  
Vallanadu Primary Agricultural Co Operative  
Credit Society Limited,  
Vallanadu, Srivaikundam Taluk,  
Thoothukudi District.

3. The Labour Court,  
Tirunelveli.

...

Respondents

**PRAYER** :Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a *Writ of Certiorarified Mandamus*, to call for the records relating to impugned order passed by the Labour Court, Tirunelveli, Vide



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E.A.No.16/2016 in E.P.No.31/2015 in C.P.No.63/2010 and quash the same and consequently direct the Labour Court, Tirunelveli to release the attachment of the mortgaged property in Survey No.742/19 to the extent of 6034.875 square feet (560.55 square meter) and the building constructed therein, having Door No. 3/110(New Door No.3/120), Situates at Vallanadu Village, Srivaikundam Tk, Thoothukudi District.

|                 |                                 |
|-----------------|---------------------------------|
| For Petitioners | : Mr.D.Shanmuga Raja Sethupathi |
| For R-1         | : Mr.V.Meenakshi Sundaram       |
| R-2             | : No appearance                 |
| R-3             | : Labour Court                  |

**COMMON ORDER**

***W.P(MD)No.10296 of 2013*** has been filed by the Vallanaadu Primary Agriculture Co-Operative Society, Vallannadu, Tuticorin District, to quash the impugned order, dated 14.05.2012 passed in C.P. NO. 63 of 2010. ***W.P. (MD)No. 21741 of 2016*** is filed by the Thoothukudi District Central Cooperative Bank Ltd. to quash the impugned order passed in E.A.No.16/2016 and consequently to release the attachment of property.



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2. The 1<sup>st</sup> respondent in both the writ petitions was an employee of the writ petitioner Bank. The 1<sup>st</sup> respondent has filed C.P. No.63 of 2010, which was partly allowed, wherein the writ petitioner Society was directed to pay a sum of Rs.3,84,149.30 along with interest.

3. The 1<sup>st</sup> respondent was terminated from service, based on the disciplinary proceeding charges for corruptive practice. However, order was passed in C.P. NO. 63 of 2010, directing the writ petitioner to reinstate the 1<sup>st</sup> respondent with backwages of 30%. The contention of the Society is that the 30% backwages ought not to have been granted, since the 1<sup>st</sup> respondent was facing serious charges of misappropriation. Moreover, based on the charges, she was terminated from service. Even after removal, the petitioner's bank could not effectively resist the 1<sup>st</sup> respondent claim, because the 1<sup>st</sup> respondent financial condition was also not conducive and could not pay the litigation expenses. The petitioner could not pay salary for the employees who are in service for the past five years. There is no income to the writ petitioner bank. Infact, orders were passed to dissolve the writ petitioner Bank.



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4. At this juncture, on the recommendation of *Vaithinathan's committee*, financial assistance was extended to the writ petitioner's bank for which all the movable and immovable was mortgaged to the Thoothukudi District Central Cooperative Bank. Therefore, the petitioner's bank is not in a position to pay backwages. Since the Labour Court has directed to pay the same, the writ petitioner Bank is before this Court.

5. The petitioner Bank was merged with the Thoothukudi District Central Cooperative Bank based on the *Vaithinathan's committee*. Therefore, the writ petitioner/Thoothukudi District Central Cooperative Bank is before this Court in *W.P(MD)No.21741 of 2016*, where the Thoothukudi Central Cooperative Bank contention is that the Valanadu Society is financially not viable society. As on date, the movable and immovable which was mortgaged to the Central Cooperative Bank, Thoothukudi District are in their custody.

6. The learned counsel appearing for the Thoothukudi District Central Cooperative Bank submitted that the mortgaged property is not enough to



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settle the dues of the Society to the Thoothukudi bank. Therefore, the Thoothukudi bank is not in a position to extend backwages to the 1<sup>st</sup> respondent.

7. Therefore, this Court is of the considered opinion that the 1<sup>st</sup> respondent has faced misappropriation charges and the Valanadu Society is not financially viable society. All the mortgaged properties if sold would not be sufficient to settled the existing dues to the Central Cooperative Society. Therefore, if any amount is available after settling the dues to the Central Cooperative Bank, Thoothukudi, the same shall disburse to the 1<sup>st</sup> respondent.

8. With these observations and directions, ***W.P(MD)No.10296 of 2013*** is disposed of and ***W.P(MD)No.21741 of 2016*** is allowed. No Costs. Consequently, connected miscellaneous petitions is closed.

Index : Yes / No  
Internet : Yes  
ksa

19.06.2023



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**To**

- 1.The Administrator,  
Vallanaadu Primary Agriculture Co-Operative Society,  
Vallannadu,  
Tuticorin District
  
2. The Managing Director,  
Thoothukudi District Central Co Operative Bank Ltd.,  
109/5d, Ettayapuram Road,  
Polpettai,  
Thoothukudi.



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**S.SRIMATHY, J**

**ksa**

**Common Order made in  
W.P.(MD)Nos.10296 of 2013 &  
21741 of 2016**

**19.06.2023**