



W.P.(MD).No.9366 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.01.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.9366 of 2012

and

M.P.(MD).No.1 of 2012

The Official Liquidator/Co-operative Sub Registrar,
(Execution and Liquidation)
E.E.145, Karungulam Primary
Agricultural Co-operative Bank (Liquidation),
Thoothukudi District Central Co-operative Bank,
Thoothukudi.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Tirunelveli – 627 002.

2.S.Vaigundam

3.The Joint Registrar of Co-operative Society,
Thoothukudi.

... Respondents

*(R-3 is suo motu impleaded vide Court Order dated 20.12.2022 in
W.P.(MD).No.9366 of 2012).*



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records in pursuant to the impugned order passed by the first respondent in Claim Petition No.10 of 2008 dated 20.10.2011 and quash the same.

For Petitioner : Mr.M.Saravana Kumar
For R-1 : Court
For R-2 : Mr.K.Sathiyasingh
For R-3 : Mr.A.Baskaran,
Additional Government Pleader.

ORDER

This Writ Petition is filed challenging the Claim Petition No.10 of 2008 dated 20.10.2011.

2. The first respondent has passed an order dated 20.10.2011 directing the petitioner Cooperative Bank, namely Karungulam Primary Agricultural Co-operative Bank, Thoothukudi, to pay Rs.5,54,349.25p to the 2nd respondent. Aggrieved over the said order, the petitioner Society has come forward with this Writ Petition. The petitioner Society was declared as financially not viable and it is running under loss. The Deputy Registrar, Thoothukudi was appointed



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as Official Liquidator. It is pertinent to state that the Official Liquidator was arrayed as one of the party before the Labour Officer also. The contention of the Official Liquidator is that the second respondent will not come under the purview of workman, since the Cooperative Society has a separate Act and Rules and each society will have separate By-laws. Moreover, a surcharge proceeding was initiated against the second respondent vide order dated 08.03.2005. Further, a criminal case was also registered in C.C.No.58 to 63 of 2002 for misappropriation of Cooperative Bank Funds to the tune of Rs. 45,98,610/-. Since the first respondent is under liquidation, the Labour Officer ought to have considered the financial status of the petitioner's Society. Without considering the same, the present order has been passed. Aggrieved over the same, this Writ Petition is filed.

3. The present writ petition is not filed by the Manager of the Society, but filed by the Official Liquidator, representing the Society. Even the respondent accepts that the society is under liquidation. Therefore, it is an admitted fact that the petitioner Society is under liquidation. When an Official Liquidator is appointed, the Society's administration would come under his preview and the regular Management ceases to exist. The Official Liquidator would be the



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authority to consider all claims including the employees claim and the transactions between the Society and others. Therefore, without considering this aspect, the impugned order has been passed. Therefore, this Court is quashing the impugned order and remitting the case to the Official Liquidator. The Official Liquidator after considering the case of the second respondent, especially the financial status of the Society, shall grant the benefits applicable to the second respondent. The Official Liquidator may also consider to grant the benefits under pro-rata basis. The official liquidator shall complete his exercise within a period of eight (8) weeks from the date of receipt of a copy of this order. Thereafter, the amount shall be disbursed to the second respondent within a period of four (4) weeks therefrom.

4. With the above direction, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

06.01.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr



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To
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S.SRIMATHY, J.

Nsr

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