



W.P(MD) No.11567 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2023

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

**W.P(MD) No. 11567 of 2020
and
WMP (MD) No. 10080 of 2020**

P.T.Rajan

...Petitioner

..Vs..

1. Deputy Registrar of Co-operative Societies,
40/41, Krishna Rao Tank Street,
Old RDCC Bank Building,
Madurai – 625 001.
2. The Joint Registrar of Co-operative Societies,
13-A, Kanaka Apartments, LDC Road,
Madurai – 625 002.
3. The President
A 3101, Madurai Milk Project Employees;
Co-operative Thrift and Credit Society Limited,
Sivagangai Road, Sathamangalam,
Madurai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a WRIT OF MANDAMUS, directing the first and second respondents to instruct the third respondent to repay 16 matured Fixed



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Deposits deposited by the Petitioner between 13.10.2017 and 10.01.2020 and matured between 05.01.2018 and 07.08.2018, by fixing a time frame, with further interest at the agreed rate of interest in the bonds, until repayment, grant such other relief(s) as expedient to the facts and circumstances of the matter.

For Petitioner : Mr. S. Seenivasagam,
For M/s.M.Ganesan

For R-1 and R-2 : Mr. M. Ramesh,
Government Advocate.

For R-3 : Mr.M.S.Jeyakarthik,
Standing Counsel.

ORDER

This writ petition is filed for writ of mandamus, directing the first and second respondents to instruct the third respondent to repay 16 matured Fixed Deposits deposited by the Petitioner between 13.10.2017 and 10.01.2020 and matured between 05.01.2018 and 07.08.2018, by fixing a time frame, with further interest at the agreed rate of interest in the bonds, until repayment, grant such other relief(s) as expedient to the facts and circumstances of the matter.



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2. It is the case of the petitioner that he has made the following deposits with the third respondent from and out of his retirement funds, which is detailed therein below:

S. No.	Deposit No	Date	Maturity Date	Deposit Amount
1.	316	13.10.2017	15.01.2018	1,00,000.00
2.	317	13.10.2017	15.01.2018	1,00,000.00
3.	318	16.10.2017	15.01.2018	1,00,000.00
4.	319	16.10.2017	15.01.2018	1,00,000.00
5.	320	16.10.2017	15.01.2018	1,00,000.00
6.	359	01.11.2017	31.01.2018	75,000.00
7.	368	03.11.2017	02.02.2018	85,000.00
8.	412	16.11.2017	16.02.2018	1,00,000.00
9.	413	17.11.2017	17.02.2018	1,00,000.00
10.	414	17.11.2017	17.02.2018	1,00,000.00
11.	415	17.11.2017	17.02.2018	1,00,000.00
12.	416	17.11.2017	17.02.2018	1,00,000.00
13.	9610	30.03.2017	01.09.2018	75,000.00
14.	9611	30.03.2017	01.09.2018	75,000.00
15.	9751	08.05.2017	07.08.2018	75,000.00
16.	9752	08.05.2017	07.08.2018	75,000.00
Total				14,60,000.00



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3. Although the fixed deposit had matured, the third respondent was not settling the matured amount to the petitioner. Without settling the matured amount, the respondents were renewing the fixed deposit amount funds without obliging the petitioner's request to repay the amount. Therefore, the said writ petition is filed.

4. Mr.M.S.Jeyakarthik, learned Counsel for the third respondent would submit that he has given change of vakalat as early as in the year 2021. Since the third respondent is already aware of the pendency of writ petition, had chosen to get change of vakalat, but had not chosen to represent before this Court through any other counsel, nor present before this Court in person, but had filed counter. Hence, this matter is taken up for final disposal. The case is decided on merits based on the available records.

5. The third respondent had filed counter wherein it is stated that the respondents accept the case of the petitioner that the petitioner had deposited Fixed Deposits. However, the case of the respondent is that the elected Board Members and its employees had misappropriated the



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societies fund to the tune of Rs.6,43,88,647/-. Hence, enquiry was conducted under section 81 of Tamil Nadu Cooperative Societies Act, 1983 and criminal action was also initiated. In order to recover the misappropriated amount, surcharge proceedings was also initiated under Section 87. As per the accounts of the third respondent society, there are 845 Fixed deposits are available to the tune of Rs.7,65,62,107/-. Further the society has issued loans to their members out of the deposited amount. The above loan are long-term loans repayable in 120 monthly installments. The society gets every month collection roughly Rs.15 to 18 lakh from the borrowers. As on 30.11.2020, a sum of Rs.4,27,45,571/- is an outstanding amount to be recovered from members of the society on monthly installments. Further as on 30.11.2020, the society has bank balance of Rs.2,51,64,596/- in saving bank account and Rs.33,14,234/- in current account. On the other hand, as on 31.05.2020, 486 mature deposits amounting to Rs.3,78,70,866 is pending to be paid to the depositors. The society is having legal obligation to refund the matured deposits with interest to the depositors. However, the assets and the liquid cash of the society is not sufficient to repay the deposited amount to the depositors. The amount repayable to the depositors is higher than the societies asset

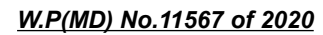


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and available cash. Therefore, the third respondent is not in a position to refund all the 486 matured deposits amounting to Rs.3,78,70,866 immediately. Hence, the first respondent formed a committee to list out the depositors in accordance with seniority and prepared to repay the amount in prorata basis i.e. 35% of the deposit amount, so as to equally satisfy all the deposit holders, including those who did not approach the High Court. Based on the committee's report and as per the instructions of the first respondent, the third respondent was about to inform about the refund of 35%. In the meanwhile, the petitioner had approached the High Court. Hence, the third respondent submitted that they had decided to satisfy all the depositors to refund 35% of deposit amount from the available resources of the society. The remaining 65% of the deposit amount will be paid as early in prorata manner to the depositors by collecting the loan repayment.

6. The third respondent sought opinion from the investigation officer in the criminal case, whether the amount can be refunded, but it was opined that it would hamper the further investigation. Moreover, under section 81 enquiry, it revealed that 97 fixed deposits were closed by staffs





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Petition is allowed and mandamus is issued to the third respondent to repay the amount due under the fixed deposit within a period of four weeks from the date of receipt of a copy of this order or its production by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.”

8. Following the aforesaid order passed in W.P.(MD)No.12519 of 2020 and considering the fact that the petitioner deposits had matured long back and the renewals are being made unilaterally by the respondent, this Writ Petition is allowed and mandamus is issued to the third respondent to repay the amount due under the fixed deposit within a period of four (4) weeks from the date of receipt of a copy of this order or its production by the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

12.09.2023

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



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S. SRIMATHY, J.,

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