



W.P.(MD)No.16101 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.16101 of 2021

and

W.M.P.(MD)No.12957 of 2021

S.K.Ramesh Babu

... Petitioner

-VS-

1. Deputy Registrar of Co-operative Societies,
Madurai Circle,
156/2, Thirupparankundram Road, 2nd Floor,
Palanganatham Roundana, Madurai - 625 003.

2. The Joint Registrar of Co-Operative Societies,
Madurai Circle,
156/2, Thirupparankundram Road, 2nd Floor,
Palanganatham Roundana, Madurai - 625 003.

3. The President,
A 3101, Madurai Milk Project Employee's
Co-operative Thrift and Credit Society Limited,
Sivagangai Road, Sathamangalam,
Madurai - 625 020.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to instruct the third respondent to repay the 4 matured Fixed Deposits, deposited by the petitioner between 23-06-2016 and 15-07-2016 and matured between



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23-06-2017 and 15-07-2017, by fixing a time frame, with further interest at the agreed rate of interest in the deposit receipts until repayment.

For Petitioner : Mr.K.V.Ramkumar

For Respondents : Mr.B.Saravanan
Additional Government Pleader

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, directing the respondents to repay the four matured fixed deposits, within the time frame fixed by this Court.

2. The case of the petitioner is that he is the Member of the third respondent Society and he had made four term deposits for a specific period. The period of deposit also matured between 23.06.2016 and 15.07.2016 and between 23.06.2017 and 15.07.2017. In spite of the same, the third respondent was refusing to repay back the fixed deposit amounts to the petitioner. A representation made in this regard to the respondents 1 and 2 also did not evoke any response. In view of the same, the present Writ Petition has been filed before this Court.



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3. The learned Additional Government Pleader appearing on behalf of the respondents submitted that the third respondent Society was under the control of the elected board. During the tenure of the elected board, the Secretary, Assistant Secretary and the Cashier in collusion with the President and the Board of Directors, misappropriated the fixed deposit amount of the Members and thereby, caused huge financial loss to the Society. An inquiry was conducted under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 [hereinafter referred to as "the Act"] and surcharge proceedings were also initiated under Section 87 of the Act against the Board of Directors and the employees of the third respondent Society, who caused financial loss to the tune of Rs.6,83,85,467/-. A surcharge decree was also passed in this regard by the Deputy Registrar of Co-operative Societies through proceedings, dated 18.02.2021, for recovering the financial loss along with 18% interest. The learned Additional Government Pleader further submitted that as against the surcharge decree, Civil Miscellaneous Appeals were also filed before the Principal District Court, Madurai and the same are pending. It was further submitted that criminal proceedings were also parallelly initiated against the accused persons and the investigation is pending in Crime No.1 of 2020.



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4. In the light of the above developments, the learned Additional Government Pleader submitted that a total financial loss of Rs.7,92,41,676/- was caused by the office bearers and the Board of Directors. That apart, the financial position of the third respondent Society is also in a very bad shape. The learned Additional Government Pleader further submitted that the financial resources of the Society was taken into consideration and totally 791 depositors were considered and part payment was made to the tune of Rs.4,62,86,537/- out of the total amount of Rs.6,38,46,657/- and that the balance amount of Rs.1,75,60,120/- is yet to be disbursed to the depositors/members.

5. In the light of the above developments, the learned Additional Government Pleader submitted that the fixed deposits made by the petitioner will also be taken into consideration and repayment of the amount will be made based on the inquiry that is now pending under Section 81 of the Act with respect to the matured deposits.



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6. Heard the learned counsel appearing on behalf of the petitioner and the learned Additional Government appearing on behalf of the respondents.

7. This Court has carefully considered the submissions made by the learned counsel on either side and the materials available on record.

8. The third respondent Society is now facing financial constraints and there is a practical difficulty in repaying back the matured deposits and only part payments have been made to 167 depositors. That apart, the inquiry is also pending under Section 81 of the Act with respect to the matured deposits. In view of the same, it will suffice, if a direction is given to the first respondent to ensure that the inquiry under Section 81 of the Act is completed at the earliest, so that the refund sought for by the petitioner can be made. This process shall be completed by the first respondent within a period of eight weeks from the date of receipt of a copy of this order. In any case, the petitioner will be treated on par with the other depositors, to whom efforts are being made to make part payments.



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9. This Writ Petition is disposed of in the above terms. No costs.

Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No

07.11.2023

Index : Yes/No

To

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156/2, Thirupparankundram Road, 2nd Floor,
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N.ANAND VENKATESH, J.

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