



WP(MD)No.15866 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **09.10.2023**

CORAM

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.15866 of 2020

P.Gowdaman

...Petitioner

/Vs./

1.The Deputy Registrar (Cooperative Societies),
O/o. Cooperative Societies' Deputy Registrar,
Medical College Road, Thanjavur-4.

2.The Managing Director,
E-197/3623, Karunthattankudi Diravida
Cooperative Town Bank Limited,
Karunthattankudi, Thanjavur-2.

...Respondents

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the 2nd respondent to re-convey/release the petitioner's property in T.S.No.2266 and T.S.No.2270/2 in Thanjavur and the land in R.S.No.89, 90/1 and 2 and 30/1 in Ramapuram village in Thanjavur Taluk, which is mortgaged under loan A/C No.63/SSI, by receiving a sum of Rs.5,39,524/- and by disposing the petitioner's representation dated 14.09.2020.

For Petitioner : Mr.R.Suriyanarayanan

For Respondents : Mr.A.K.Manikkam

Special Government Pleader



WP(MD)No.15866 of 2020

ORDER

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This writ petition has been filed for issuance of writ of mandamus, directing the second respondent to release / reconvey the subject properties by receiving one time settlement pursuant to the representation made by the petitioner on 14.09.2020.

2. The case of the petitioner is that he is a member of the second respondent bank. The petitioner borrowed a sum of Rs.3,22,500/- by mortgaging his properties in order to establish fishing firm. The petitioner committed default in the repayment of the loan and hence, proceedings were initiated by the first respondent under Section 90 of the the Tamil Nadu Co-operative Societies Act, 1983.

3. Pursuant to initiation of the proceedings, the properties belonging to the petitioner were also attached. At that point of time, the petitioner offered one time settlement to pay a sum of Rs.5,77,968/- by relying upon relevant Government Order and this offer was also rejected. Criminal proceedings were also initiated by the second respondent against petitioner and others in CC No. 138 of 2004 on the ground that the loan was obtained by giving false particulars.



WP(MD)No.15866 of 2020

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3. The proceedings that were initiated by the first respondent ended up with an order passed on 08.02.2005 against the petitioner. Aggrieved by the same, the petitioner filed an appeal in CMA No.9 of 2005 before the Principal District Judge, Thanjavur and the same was allowed on 16.02.2010 by setting aside the order passed by the first respondent and the matter was remanded back to the file of the first respondent for fresh disposal. According to the petitioner, pursuant to the remand, the first respondent did not pass any orders and the matter was kept pending. Insofar as the criminal prosecution is concerned, the same ended in acquittal by virtue of the judgment passed by the learned judicial Magistrate I, Thanjavur, dated 31.01.2019 and this judgment also became final.

4. It is under these circumstances the petitioner has knocked the doors of this Court by seeking for appropriate relief on the ground that there has been absolutely no progress from the side of the first respondent, even though the matter was remanded back as early as in the year 2010. When the matter came up for hearing on 05.10.2023, this Court passed the following order:-

“The petitioner has taken a stand that the amount that is sought to be recovered is already barred by limitation. However, the learned counsel appearing for the petitioner is willing to make one time settlement to the second respondent and he seeks further direction to the second respondent to reconvey the



WP(MD)No.15866 of 2020

property in favour of the petitioner.

2. The learned Special Government Pleader seeks for time to take instructions in this regard.

3. Post this case under the caption 'For orders' on 09.10.2023.”

5. When the matter was taken up today, the learned Special Government Pleader appearing on behalf of the respondents placed the communication received from the second respondent dated 07.10.2023. From the said communication, it is seen that the second respondent has calculated the interest and the principal and has arrived at a total sum of Rs.10,09,019/- payable by the petitioner. The breakup figures for the entire period, where the interest has been calculated, is also annexed along with the communication.

6. Thus, if the petitioner pays the sum of Rs.10,09,019/- to the second respondent bank, the loan amount will get settled and the properties belonging to the petitioner will also be released from the attachment. When the above was brought to the notice of the learned counsel for the petitioner, the learned counsel submitted that sometime is required for the petitioner to pay the amount.

7. Taking into consideration the facts and circumstances of the case and also the fact that the matter has been pending for quite a long time for nearly 23



WP(MD)No.15866 of 2020

years, the issue has to be brought to an end. While doing so, the interest of the

bank and also the interest of the petitioner has to be balanced by this Court.

Accordingly, there shall be a direction to the petitioner to pay the sum of Rs.10,09,019/- (Rupees Ten Lakhs and Nine Thousand Nineteen only) within a period of two months from today to the second respondent. On receipt of such payment, the second respondent bank shall issue necessary proceedings by closing the loan and lifting the attachment made against the properties that were given as security.

8. It is made clear that one last opportunity is given to the petitioner to clear the above said amount and to get the properties relieved from the attachment. If the petitioner fails to make the payment, it is left open to the second respondent to proceed further to recover the amount by bringing the property for sale.

9. This writ petition is disposed with the above directions. No costs.

09.10.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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WP(MD)No.15866 of 2020

N.ANAND VENKATESH, J.

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TO:

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O/o. Cooperative Societies' Deputy Registrar,
Medical College Road, Thanjavur-4.
- 2.The Managing Director,
E-197/3623, Karunthattankudi Diravida
Cooperative Town Bank Limited,
Karunthattankudi, Thanjavur-2.

Order made in
W.P.(MD)No.15866 of 2020

Dated:
09.10.2023