



W.P.(MD).No.1543 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 08.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.1543 of 2016

and

W.M.P.(MD).Nos.1304 and 1305 of 2016

A.Murugandi

... Petitioner

Vs.

1.The Deputy Registrar,
Co-operative Societies,
Tuticorin.

2.The Secretary,
EE221 Korampallam Primary
Agricultural Co-operative Credit Society,
Korampallam,
Tuticorin – 628 101.

3.M.Subbaiah

... Respondents

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 Reference No.Na.Ka.5408/2011 Na.Va dated 27.12.2011 issued by the first respondent and the consequent letter issued by the second respondent dated NIL and quash the same.



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For Petitioner : M/s.D.Geetha
For R-1 : Mr.S.Shanmugavel,
Additional Government Pleader.
For R-2 : No Appearance.
For R-3 : Mr.K.Appadurai

ORDER

This Writ Petition is filed to quash the order dated 27.12.2011 issued by the first respondent and the consequent letter issued by the second respondent dated NIL.

2. The petitioner was employed as Night Watchman in the second respondent Society and now he is receiving the salary of Rs.12,000/-. During the year 2002, one M.Subbaiah, who is the third respondent herein, was the Secretary of the second respondent Society. The third respondent had applied for loan from the Tuticorin District Primary Agricultural Co-operative Bank Employees' Cooperative Thrift Society, Srivaikundam for a sum of Rs.1,00,000/-. Since the Thrift Society informed him that the loan should be



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supported by guarantor, the third respondent being a superior officer, demanded the petitioner to affix his signature in certain papers. Being a superior officer to the petitioner, the petitioner could not deny and without knowing the facts that those signatures were obtained in the Loan Application Forms for the purpose of proposing the petitioner as a Guarantor for his loan. Thereafter, the third respondent was dismissed from service after a disciplinary enquiry in the year 2009 and he preferred Writ Petition in W.P.No.704 of 2011 before the Principal Seat, challenging the dismissal order. The second respondent issued an order dated Nil informing that a sum of Rs.2,000/- was proposed to be recovered from the petitioner's salary towards the loan amount. The second respondent has also referred to a letter dated 27.12.2011 issued by the first respondent. However, the said letter was not served to the petitioner. On receiving the impugned order, the petitioner came to understand that he stood as a Guarantor for the loan amount obtained by the third respondent. Since the petitioner is working as Night Watchman and the third respondent is working as Secretary, the petitioner is seeking equity relief from this Court.

3. The learned counsel appearing for the third respondent sought time to get instructions from the third respondent. The third respondent has not filed



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any counter inspite of notice received by him. Therefore, this Court is not inclined to grant any adjournment.

4. The learned counsel appearing for the respondents 1 and 2 submitted that the Writ Petition filed by the third respondent before the Principal Court was already dismissed by the Hon'ble High Court vide order dated 02.04.2019 against which the third respondent has preferred an appeal and the same was pending.

5. After hearing the rival submissions, this Court is of the considered opinion that the allegations against the third respondent was not refuted by the third respondent by way of filing counter. It is seen from the Writ Petition that the petitioner is working as Night Watchman, whereas the third respondent had served as Secretary to the second respondent Society. The third respondent by using his power, has threatened the petitioner to affix signature as Guarantor. The attitude act of the third respondent ought to be deprecated. Therefore, this Court is inclined to grant relief to the petitioner. Inspite of the petitioner being a Guarantor and having equal liability as debtor, this Court directs the petitioner to deposit Rs.25,000/- (Rupees Twenty Five Thousand only) to the second



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respondent Society and the second respondent Society shall relieve the petitioner thereafter. The rest of the principal amount that is Rs.75,000/- (Rupees Seventy Five Thousand only) along with interest shall be recovered from the third respondent. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. The impugned order is modified to the extent stated above. With the above direction, this Writ Petition is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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



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S.SRIMATHY, J.

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