



W.P.No.11587 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.11587 of 2023

V.Dhanapal

...Petitioner

Vs.

1. The District Collector,
Tiruvannamalai District,
Tiruvannamalai.
2. The Deputy Commissioner of Labour,
Vellore.
3. The Tahsildar,
Tiruvannamalai Taluk,
Tiruvannamalai.
4. The Revenue Inspector,
Thanipadi (South) Firka,
Tiruvannamalai.
5. The Secretary,
H.H.564, Primary Agriculture Co-operative Credit Society,
Tanipadi,
Tiruvannamakai Taluk.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the third and fourth respondent to recover a sum of Rs.2,51,192/- together with 15% interest thereon from the fifth respondent, as ordered by the first respondent by his order dated 05.05.2022.



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For petitioner : Mr.B.Jawahar
For R1 to R4 : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader
For R5 : Mr.M.Rajendiran
Additional Government Pleader

ORDER

This writ petition is filed seeking for a mandamus to direct the third and fourth respondent to recover a sum of Rs.2,51,192/- together with 15% interest thereon from the fifth respondent, as ordered by the first respondent by his order dated 05.05.2022.

2. The petitioner was appointed in the fifth respondent society on 01.09.1976. In the year 2004, based on the audit report enquiry and was conducted and it was alleged that the petitioner has issued loans to the members of the society over and above the eligibility. Based on the enquiry report, surcharge proceedings were issued under Section 87 of the Tamil Nadu Co-Operative Societies Act and finally orders were passed in respect of Rs.6,42,999/-. In the mean while on 30.06.2011, the petitioner retired on attaining the age of superannuation. The petitioner has requested the fifth respondent to grant him terminal benefits. But the same was not paid including the gratuity of Rs.2,51,192/- on the ground that



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surcharge proceedings were pending against the petitioner.

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3. It is further submitted that the petitioner has filed a case before the Controller, Assistant Commissioner of Labour, under payment of Gratuity Act, Vellore. The said case in PG No.25 of 2016 was dismissed holding that the surcharge proceedings was pending against the petitioner. Further, the petitioner preferred appeal before the Additional Commissioner of Labour, Chennai, and the said appeal was allowed in PGA No.1 of 2018 by order dated 03.03.2019.

4. The learned counsel for the petitioner has submitted that the order of the Labour Commissioner was communicated to the second respondent to take further action. The second respondent by letter dated 31.12.2021 sent a letter to the first respondent/District Collector to take action under Revenue Recovery Act. The first respondent by order dated 05.05.2022 ordered the third respondent to initiate action under Revenue Recovery Act and to recover a sum of Rs.2,51,192/- with 15% interest. Further, based on the said order, the third respondent by letter dated 15.05.2022, directed the fourth respondent to recover the amount from the fifth respondent. It is submitted that inspite of giving several directions, the



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fourth respondent has not taken any steps for recovery of the said amount.

Aggrieved by the same, this writ petition is filed.

5. The learned counsel for the fifth respondent has submitted that the rate of 15% is excessive and is on the higher side and that the principal amount has already been paid.

6. The learned Additional Government Pleader representing the first to fourth respondents submitted that as per the directions of the first respondent, the third and the fourth respondent will recover the dues under the Revenue Recover Act, by taking suitable steps.

7. Heard both sides and perused the materials on record.

8. It is submitted by the learned Senior Counsel for the respondent Society that the fifth respondent society was not aware of the orders passed regarding the initiation of recovery and further, submitted that when the surcharge proceedings were pending against the petitioner, the orders directing the authorities to recover gratuity by way of Revenue Recovery Act should not have been passed. The fifth respondent has



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however, participated in the appellate proceedings and submitted that the surcharge proceedings were pending against the petitioner and requested the authorities not to consider the request of the petitioner in the appeal but said plea was not considered and the appeal was allowed.

9. The fifth respondent failed to make out any case that the petitioner cannot demand interest at the rate of 15%. This aspect was raised by the fifth respondent before the appellate authority and the same was also declined. Even in this writ petition, the petitioner has not placed any materials as to why interest at the rate of 15% shall not be levied.

10. In view of the above, this writ petition is allowed directing the respondents one to three to initiate proceedings against the fifth respondent and complete the recovery of dues to the tune of Rs.2,51,192/- with interest @ 15% p.a. within a period of 12 weeks from the date of receipt of a copy of this order.

04.04.2024

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Index	:	Yes/No
Internet	:	Yes/No
Citation	:	Yes/No



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DR.D.NAGARJUN,J.

Vca

To

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