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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-02-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE K.RAJASEKAR**

**WP No.21331 of 2023
And
WMP Nos.20731 and 20732 of 2023**

P.Latha

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Petitioner

-VS-

1.The Principal District Judge,
Salem Principal District Court,
Salem.

2.The III Additional District Judge,
District Court Campus,
Salem- 636 007.

3.The Secretary
Salem and Namakkal District Judicial Employees Co-operative
Thrift and Credit Society,
District Court Campus,



Salem- 636 007.

4.The District Treasury Officer,
Salem District,
Salem.

5.P.Elangovan

[R-5 impleaded vide order of Court dated
15.02.2024 made in WMP No.27563 of 2023
in WP No.21331 of 2023]

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Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the certificate of the second respondent in D.No.203 dated 09.02.2023 and quash the same and consequently direct the respondents 1 and 2 to accord family pension in favour of the Petitioner on account of the death of her husband Mr.Periyasamy.

For Petitioner : Mr.C.K.M.Appaji

For Respondents-1 and 2: Mr.K.Elangoo

For Respondent-3 : Mr.P.Ganesan



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ORDER

[ORDER OF THE COURT WAS MADE

BY S.M.SUBRAMANIAM, J.]

The Certificate issued by the learned III Additional District Judge, Salem dated 09.02.2023, is sought to be quashed in the present writ proceedings.

2. The husband of the writ petitioner late Mr.M.Periyasamy served as Watchman in Tamil Nadu Judicial Department. He served as a Driver till March 2019. The husband of the writ petitioner met with an accident on 17.03.2019 and sustained head injuries and subsequently, he died on 19.03.2019. At the time of death of husband of the writ petitioner, his daughter Ms.P.Ramya was aged about 22 years, son Mr.Santhosh was aged about 21 years and another son Mr.P.Maitheeswaran was aged about 15 years. Mr.P.Santhosh, son of the deceased employee was given appointment on compassionate ground in the Judicial Department and serving as Junior Bailif. The deceased employee stood as guarantor in



respect of loan borrowed by one Mr.P.Elangovan, Junior Assistant, an employee in the Judicial Department. The said Mr.P.Elangovan committed default in repayment of loan amount.

3. It is brought to the notice of this Court that the said Mr.P.Elangovan was terminated from service and not repaid the entire loan amount. Thus the Society proceeded against the deceased husband of the writ petitioner, who was a guarantor as well as the borrower. Subsequently, an Award was passed by the Deputy Registrar of Cooperative Societies under Section 9 of the Tamil Nadu Cooperative Societies Act.

4. The impugned Certificate issued by the learned III Additional District Judge states that except the Award, no objection was granted to other pending claims in respect of the deceased husband of the writ petitioner. Such a Certificate issued would not provide any cause for institution of the writ proceedings. The said Certificate was issued for the limited purpose to submit the pension proposal for sanction.



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5. Mr.C.K.M.Appaji, learned counsel for the petitioner, would submit that the husband of the writ petitioner was a guarantor and after his death, family pension due to the petitioner is withheld. Family pension cannot be recovered and therefore, 'No Due Certificate' issued granting exemption to the Award is untenable.

6. The learned counsel for the respondent-High Court would oppose the said contention raised on behalf of the petitioner by stating that the Pay Disbursing Officer is bound to recover the dues to the Cooperative Societies and settle the same.

7. Admittedly, the husband of the writ petitioner was a guarantor in the loan transaction and therefore, only after settling the dues to the Cooperative Societies, the Administration will be in a position to clear balance dues in any way, including the family pension.

8. We are of the considered opinion that an Award passed under Section 90 of the Tamil Nadu Cooperative Societies Act, is



appealable under Section 152 of the Tamil Nadu Cooperative Societies Act.

The learned Principal District and Sessions Judge/Special Tribunal for Cooperative Cases concerned, is empowered to entertain the appeal against the order passed by the Deputy Registrar under Section 90 of the Tamil Nadu Cooperative Societies Act.

9. The contractual disputes and its obligations relating to loan transactions, cannot be adjudicated in the writ proceedings. Under Section 48 of the Tamil Nadu Cooperative Societies Act, the Pay Disbursing Officer is duty bound to recover the loan dues from the salary of the employees and pay the same to the Cooperative Societies.

10. The declaration/undertaking was given by the Pay Disbursing Officer at the time of sanctioning of loan is binding on her. Therefore, the Pay Disbursing officers are bound to recover the loan dues and deposit the same to the credit of the Cooperative Societies. It is the statutory obligation on the part of the Pay Disbursing Officers.



11. As far as the loan transactions are concerned, it was between the principal borrower, guarantor and the Cooperative Society. The loan transactions are governed under the provisions of the Tamil Nadu Cooperative Societies Act.

12. Admittedly, an Award under Section 90 of the Tamil Nadu Cooperative Societies Act, was passed. Therefore, the petitioner has to prefer an appeal under Section 152 of the Tamil Nadu Cooperative Societies Act. Contrarily, the High Court in writ proceedings cannot grant waiver of loan amount due to the Cooperative Societies for the purpose of grant of family pension to the petitioner. Therefore, the petitioner has to clear the loan dues to the Cooperative Societies and claim the pensionary benefits, including the family pension.

13. Pertinently, in the present case, the son of the petitioner was appointed on compassionate ground and working in the Judicial Department. Therefore, it is for the petitioner to settle the loan dues to the Cooperative Society and thereafter claim pensionary benefits due to the



deceased employee by following the procedures as contemplated. In respect of loan transactions, the petitioner is at liberty to work out their remedy in the manner known to law.

14. With the above liberty, the present writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(S.M.SUBRAMANIAM,J.) (K.RAJASEKAR,J.)

15-02-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

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Salem Principal District Court,
Salem.

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