



W.P.(MD)No.499 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.499 of 2021

V.Balu

.. Petitioner

Vs.

1.The Registrar of Cooperative Societies(Housing),
Veppery, Chennai.

2.The Regional Deputy Registrar of
Cooperative Societies (Housing),
Thanjavur, Thanjavur District.

3.Thirubuvanam Coopratve House Building
Society Ltd., Z.857,
Rep. by its Managing Director,
Thirubuvanam – 612 103.,
Thanjavur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus directing the respondents to disburse the
entire retirement (monetary) benefits and other attendant benefits like



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Provident Fund, Gratuity etc., to the petitioner by considering the petitioner's representation dated 24.12.2020.

For Petitioner : Mr.M.Gnanagurunathan
For Respondents : Mr.D.Sachi Kumar
Additional Government Pleader

ORDER

This writ petition has been filed seeking writ of mandamus, to direct the respondents to disburse the retirement benefits and other attendant benefits like Provident Fund, Gratuity etc., to the petitioner by considering his representation dated 24.12.2020 said to have been submitted by the petitioner.

2. The petitioner was initially appointed as Clerk in the third respondent Society on 31.10.1979 and thereafter, promoted to the post of Secretary and then the petitioner retired from service on 28.02.2010 on



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attaining the age of superannuation after rendering service of 33 years and 3 months in the third respondent Society. However, the terminal benefits of the petitioner that are payable to him consequent on the petitioner's retirement on attaining the age of superannuation, are not settled. Hence, the petitioner submitted repeated representations, but the same are not considered by the respondent and hence, the petitioner filed this writ petition in the year 2021.

3. The second respondent filed counter affidavit stating that the third respondent Society had fallen into loss and finally resulting in winding up of the Society and the same was accordingly liquidated through proceedings dated 29.01.2018 under Section 139(2)(b) of the Tamilnadu Co-operative Societies Act, 1983 and the entire dues including the loan amount that are payable to the Tamilnadu Co-operative Housing Federation, which is the lending body of the third respondent Society is to the tune of Rs.129.78 lakhs. It is also further stated that the third respondent Society is not having any funds as on date and the properties(3 plots) that are owned by the third respondent are subjected to litigation at the instance of the third

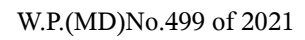


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parties and the same is pending for adjudication in O.S.No.96 of 2005 on the file of the Principal Sub Court, Kumbakonam with regard to one plot and in respect of 2 other plots in second appeal in S.A.No.379 of 2008 is also pending before this Court. It is further stated that it is only after the litigation is over and on selling the said plots belonging to the third respondent Society, the dues payable to the petitioner and others could be settled.

4. There is no dispute about the entitlement of the petitioner for getting his terminal benefits consequent upon his retirement on attaining superannuation. If that be the case, in the absence of any resource for the third respondent Society as on date, no mandamus can be issued directing the payment of retirement benefits within the time limit.

5. Considering the fact that the third respondent Society is having certain assets in its name, though under litigation, this writ petition is disposed of directing the second respondent, who is the controller of the third respondent Society as on date, to pay all the dues that are payable to the



6. With the above direction, this Writ Petition is disposed of. No

NCC : Yes/No
Index : Yes/No
Internet : Yes
PJJ

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Society Ltd., Z.857,
Rep. by its Managing Director,
Thirubuvanam – 612 103,
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MUMMINENI SUDHEER KUMAR, J.

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