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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.6559 of 2024
and WMP(MD)Nos.6129 & 6130 of 2024

T.Kallupatti Primary Agri Co-operative
Credit Society Limited(A2445),
Rep. by its Secretary,
Peraiyur Taluk,
Madurai District. .. Petitioner

Vs.

1. The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Regional Office,
Lady Doak College Road,
Chokkikulam, Madurai.

2. The Authorized Officer,
Regional Office,
Employees Provident Fund Organization,

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Madurai.

3. The Recovery Officer,
Employees Provident Fund Organization,
Madurai.

4. The Manager,
Madurai District Central Cooperative Bank,
No.2/142, Vannivelampatti Road,
T. Kallupatty Branch,
Peraiyur Taluk,
Madurai District. .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned recovery order in No. MDMDU181/0024594/CP1/Div802/2024 dated 06.02.2024 issued by the 3rd respondent and consequential impugned order in No. MD/MDU/RO/Recy/24594/8F/M-2/2024 dated 16.02.2024 issued by the 1st respondent to the 4th respondent and quash the same as illegal.

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For Petitioner : Mr.A.N.Ramanathan

For Respondents : Mr.P.Karthick
Standing counsel
for R1 to R3

: Mr.D.Shanmugaraja Sethupathy
for R4

ORDER

The present writ petition has been filed seeking a Writ of Certiorari to quash the impugned recovery order dated 06.02.2024 issued by the 3rd respondent and consequential impugned order dated 16.02.2024 issued by the 1st respondent to the 4th respondent.

2. Heard Mr.A.N.Ramanathan, learned counsel appearing for the petitioner, Mr.P.Karthick, learned counsel appearing for the respondents 1 to 3 and Mr.D.Shanmugaraja Sethupathy, learned counsel appearing for the 4th respondent.

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3. Mr.A.N.Ramanathan, learned counsel for the petitioner submitted that the impugned notice for recovery has been issued under Section 8F of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, despite the petitioner made partial payment. He further submitted that prior to the order of notice for recovery, no notice has been issued and no order has been passed and now coercive steps are being taken to attach the bank account of the petitioner Society.

4. Mr.P.Karthick, learned counsel for the respondents 1 to 3 submitted that the petitioner Society has already filed a writ petition in W.P(MD)No.14620 of 2014 challenging the impugned order passed under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, for determining the contribution to be paid by the petitioner Society. But the petitioner has failed to prosecute the said writ petition and the said writ

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petition was dismissed for default on 29.08.2023. Now after the issuance of notice for recovery, he has filed the present writ petition.

5. The learned counsel for the petitioner submitted that the petitioner has filed an application to restore the writ petition in W.P(MD)No.14620 of 2014 which was dismissed for default.

6. The petitioner instead of filing an appeal over the orders passed under Section 7A of the EPF & MP Act, has filed this writ petition stating that he has not been given with the copy of the order passed under Section 7A of the EPF & MP Act. In fact the very act of the petitioner in filing the earlier writ petition, without challenging the order of the respondent dated 25.08.2014 and having allowed the appeal time to expire, now, the petitioner has filed this writ petition by challenging the notice for recovery. In view of the same, the writ petition itself is not maintainable. It is up

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to the petitioner to agitate his claim, if any, in the earlier writ petition filed by him in W.P(MD)No.14567 of 2014 in the event of its restoration.

7. With the above observation, this writ petition is **disposed of**. No Costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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R.N.MANJULA, J.

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Order made in
W.P.(MD)No.6559 of 2024 and
WMP(MD)Nos.6129 & 6130 of
2024

Dated:
04.06.2024

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