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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2024

CORAM:

THE HONOURABLE MRS. JUSTICE S.SRIMATHY

REV. APLW.(MD) No.51 of 2024

in

W.P.(MD)No.8930 of 2016

Agastheeswaram Primary Cooperative
Agricultural and Rural Development Bank,
KN 67, Nagercoil,
Kanyakumari District.

... Petitioner

Vs.

1.S.Sankaralingam

2.The Registrar,
Cooperative Soceties,
No.170, E.V.R.Periyar High Road,
Keelpauk, Chennai.

3.The Joint Registrar Cooperative Society,
Kanyakumari Region,
Nagercoil,
Kanyakumari District.

... Respondents



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PRAYER : Review Application is filed under Section 114 and Order 47 Rule 1 of C.P.C. to review as against the aggrieved portion of observation made in W.P.(MD) No.8930 of 2016, dated 20.03.2023.

For Petitioner : Mr.T.Cibi Chakraborty
For R1 : Mr.K.Gokul
For R2 & R3 : Mr.M.Ramesh,
Government Advocate

ORDER

The present Review Application has been filed against the order passed in W.P.(MD) No.8930 of 2016, dated 20.03.2023.

2. The contention of the review applicant is that the G.O.Ms.No.186, Department of Co-operation, Food and Consumer Protection, dated 16.08.2000 was challenged in several writ petitions and the same was uphold. Even though, the said G.O. was implemented from 03.03.2009, however, the G.O. directs to recover the excess amount from 01.10.2004 vide proceedings of the 2nd respondent/Registrar of Co-operative societies, dated 27.05.2010. This was not brought to the knowledge of this Court. Therefore, this Court is inclined to entertain this review application.



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3. The Learned Counsel appearing for the writ petitioner submitted that since the employee was retired from service on 30.04.2011, the Society has recovered from the final disbursement after retirement, which is illegal. However, the same is clarified that the amount was not deducted from Gratuity, for which the tabulation stated in the affidavit filed along with the review application is extracted hereunder:

Sl.No.	Particulars	Amount
1.	Earned Leave Surrendered salary	Rs.1,44,716
2.	Employees Provident Fund	Rs.1,57,030
	TOTAL	Rs.3,01,746
	Excess payment recovery	Rs.2,29,586
	BALANCE	Rs.72,160

Therefore, the Society has not recovered the amount from Gratuity, but has recovered from Earned Leave and Employees Provident Fund. In fact, the Gratuity amount of Rs.5,09,558/- was paid in two instalments, the first instalment was paid through a Cheque No.20026 dated 16.05.2011 to the tune of Rs. 3,52,526/- and the second instalment was paid through a Cheque No.20033 dated 13.06.2011 to the tune of Rs.1,57,032/-. Therefore, it is evident that the Society has not deducted from the Gratuity, but deducted from Earned Leave and



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Employees Provident Fund. There is no statutory bar to deduct the amount from the Earned Leave and Employees Provident Fund.

4. Further it is seen that following the Judgment of the Hon'ble Division Bench of this Court, the review applicant is empowered to recover under G.O.Ms.No.186, Department of Co-operation, Food and Consumer Protection, dated 16.08.2000 and the Society is entitled to recover the excess amount which was paid for a period from 2004-2009.

5. Therefore the order passed in writ petition ought to be interfered with. Accordingly, the Order passed in W.P(MD)No.8930 of 2016, dated 20.03.2023 is hereby set aside and the writ petition is dismissed. The Review Application is allowed. No Costs.

15.03.2024

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

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To

- 1.The Registrar,
Cooperative Soceties,
No.170, E.V.R.Periyar High Road,
Keelpauk, Chennai.
- 2.The Joint Registrar Cooperative Society,
Kanyakumari Region,
Nagercoil,
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S.SRIMATHY, J.

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