



W.A(MD).No.1564 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 13.08.2024

CORAM

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.A.(MD)No.1564 of 2018
and
C.M.P(MD)No.11152 of 2018**

The President,
T.1326, Thiruvaiyaru Primary Agricultural Co-operative Credit Society,
Thiruvaiyaru Taluk,
Thanjavur District. ... Appellant/4th respondent

Vs

1. A.V.Ramachandran ... 1st Respondent/Petitioner

2. The Registrar of Co-Operative Societies,
Kilpauk,
Chennai.



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3. The Joint Registrar of Co-Operative Societies,
Thanjavur.

4. The Deputy Registrar of Co-Operative Societies,
Thanjavur.

5. The District Collector,
Thanjavur. ... Respondents 2 to 5/Respondents 1 to 3 & 5

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent
against the order passed in W.P.(MD)No.18183 of 2018, dated
21.08.2018.

For Petitioner : Mr.H.Arumugam

For Respondents : Mr.G.M.Xavier – for R1

Mr.M.Senthil Ayyanar – for R2 to R5

Government Advocate

JUDGMENT

The Writ Appeal has been filed questioning the order, dated



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21.08.2018 in W.P.(MD)No.18183 of 2018, by which order, at the time of admission, the writ petition had been allowed.

2. W.P.(MD)No.18183 of 2018 had been filed in the nature of a Mandamus by the first respondent herein, A.V.Ramachandran seeking a direction against the respondents to settle the subsistence allowance of Rs.15,84,884/- payable to him with a reasonable rate of interest from the date of order, namely, 19.08.2016 within the stipulated time.

3. The learned Single Judge of this Court while examining the said writ Petition, at the time of admission, had observed that the writ petition filed by the writ appellant /Management namely, Thiruvaiyaru Primary Agricultural Co-operative Credit Society, Thiruvaiyaru Taluk, had been dismissed for default. It is a fact that the said writ petition filed by the management in W.P.(MD)No.19460 of 2016 had been dismissed for default on 09.02.2018. After observing the particular fact, it had been also observed by the learned Single Judge that the said Management/ Thiruvaiyaru Primary Agricultural Co-operative Credit Society,



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Thiruvaiyaru Taluk, had not filed any appeal before the appellate authority as contemplated under the Payment of Subsistence Allowance Act, 1981, since they had to deposit the amount if they were to file the appeal. Thereafter, the learned Single Judge had allowed the writ petition and he had relied on the Larger Bench judgment of this Court in ***K.Marappan Vs. The Deputy Registrar of Co-operative Societies, Namakkal, reported in 2006(4) CTC -689.***

4. In that particular judgment in K.Marappan's case, the primary issue was whether a writ petition was maintainable against the Co-operative Society and it had been held that since the Society is a State, writ petition is maintainable. Therefore, the learned Single Judge after observing that the writ petition filed by the Management, had been dismissed for default, had granted the Mandamus as prayed for. But there are certain further factors, namely, that W.P.(MD)No.19406 of 2016 had been restored, by order, dated 14.11.2018 and is still pending for consideration before the learned Single Judge. That writ petition had been filed questioning the order of the Assistant Commissioner granting subsistence allowance from the date on which the first respondent herein



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was placed under suspension, till the date of passing order by the Assistant Commissioner.

5. When that issue is still alive, there could not be a direction to pay the amount as directed by the said authority. Both the writ petitions will necessarily have to be heard together. The one prevailing factor which weighed on the learned Single Judge namely, that W.P.(MD)No.19460 of 2016 had been dismissed for default does not any longer survive since the writ petition has now been restored to file and is still pending.

6. It would only be appropriate that this matter is remanded back for fresh consideration before the learned Single Judge. We would also direct the Registry to list both W.P.(MD) No.18183 of 2018 and W.P.(MD)No.19460 of 2016 for consideration before the same learned Single Judge depending on the nature of Roster or otherwise obtain necessary orders from the Hon'ble Administrative Judge in that particular regard.



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7. With the above observation and direction, the Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(C.V.K., J.) (J.S.N.P, J.)
13.08.2024

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

RM

To

1. The Registrar of Co-Operative Societies,
Kilpauk,
Chennai.
2. The Joint Registrar of Co-Operative Societies,
Thanjavur.
3. The Deputy Registrar of Co-Operative Societies,
Thanjavur.
4. The District Collector,
Thanjavur.



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**C.V.KARTHIKEYAN, J.
and
J.SATHYA NARAYANA PRASAD, J.**

RM

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(1/2)

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