



WEB COPY



Writ Petition No.5903 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

Writ Petition No.5903 of 2019

C.Rajeswari

.... Petitioner

-Vs-

- 1.The Registrar of Co-operative Societies
Kilpauk, Chennai-10.
- 2.The Joint Registrar of Co-operative Societies
Krishnagiri Region
Krishnagiri
Krishnagiri District.
- 3.The Deputy Registrar of
Co-operative Societies
Hosur Circle, Hosur
Krishnagiri District.
- 4.The Superintendent of Police
CCIW CID, Guindy
Chennai.
- 5.The President
D.K.80, Berigai Primary Agricultural
Co-operative Credit Society
Sulagiri Road, Berigai-635 105
Sulagiri Taluk, Krishnagiri District.



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6.Mr.V.Anand
President
D.K.80, Berigai Primary Agricultural
Co-operative Credit Society
Sulagiri Road, Berigai-635 105
Sulagiri Taluk, Krishnagiri District.

7.N.Subramaniyan

8.V.Sumathi

9.P.V.Srinivas

10.M.Sathyanarayanan

11.R.Somasekar

12.Narayanappa

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 1st respondent to conduct proper enquiry by appointing enquiry officer not below rank of the Additional Registrar of Co-operative Societies in regarding with malpractice adopted by the respondents 3, 5 to 12 for grabbed the petitioner and her family members properties and take further action on the basis of report to be filed by the enquiry officer.

For Petitioner : M/s.Sathiaseelan

For Respondents : M/s.B.Tamilnidhi
Additional Government Pleader
for R1 to R3

Mr.R.Balaramesh for R5



ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a direction against the 1st respondent, Registrar of Co-operative Societies at Chennai, to conduct an enquiry by appointing an Enquiry Officer not below the rank of Additional Registrar of Co-operative Societies relating to the alleged malpractice adopted by the 3rd, 5th - 12th respondents who, according to the petitioner had grabbed the properties of the petitioner. The petitioner seeks further action to be taken on the basis of report filed by the Enquiry Officer.

2.In the affidavit filed in support of the writ petition, it had been stated that the petitioner had obtained agricultural term loan for Rs.1.5Crores from the 5th respondent Society viz., the Berigai Primary Agricultural Co-operative Credit Society at Sulagiri Taluk in Krishnagiri District. The petitioner had mortgaged her property measuring 4.5 acres. The petitioner claims that she had repaid a sum of Rs.47/- lakhs towards the principal amount and Rs.72/- lakhs towards interest as on the date of filing of the writ petition.

3.It had been further stated that the President of the 5th respondent Society insisted on the petitioner to execute a Power of Attorney in the name of the friend



of the President, who is the 7th respondent. The petitioner, her family members and her husband executed a Power of Attorney in the name of the 7th respondent on 11.12.2017. It had been stated that thereafter the 7th respondent had executed a sale deed in favour of the wife of the President the 8th respondent who, executed a Power of Attorney in favour of the 7th respondent. Again, thereafter four separate sale deeds had been registered in favour of the 9th -12th respondents. It had been stated that the property of the petitioner had been thus grabbed by the said respondents and in order to enquire into the entire modus operandi adopted, it is sought that an Enquiry Officer not below the rank of Additional Registrar of Co-operative Societies should be appointed. But unfortunately, though the petitioner had stated these facts, there are also several other facts which has not been stated in the affidavit and which could be construed as deliberate suppression. The husband of the petitioner was a Secretary of the 5th respondent Society.

4. It is contended on behalf of the respondents that as against the husband, an enquiry was conducted under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 [hereinafter referred as 'the Act'] and thereafter, on the basis of the report, surcharge proceedings under Section 87 of the Act, had also been



initiated. Additionally, on a complaint given, FIR in Crime No.1/2019 had also been registered by the CCIW at Krishnagiri District in which the petitioner was categorised as 2nd accused and her husband was the 1st accused. It is the case of the respondent that had been a misappropriation to a sum of Rs.14/- Crores from the Society. The learned counsel for the petitioner claims that the misappropriated sum was only Rs.11/- Crores and that a sum of Rs.9.5/-Crores had been repaid. But all these points out to the fact that there had been misappropriation and in consequent to such misappropriation, not only the respondents initiated proceedings under Section 87 of the Act but had also registered a First Information Report as against the petitioner categorising the petitioner as the 2nd accused.

5.It must also be mentioned that the petitioner had also filed WP.No.28192 of 2018 in the nature of a Mandamus seeking a direction to extend the benefits of the loan waiver Scheme to the petitioner consequent to G.O.Ms.No.50 Corporation Food and Consumer Protection Department dated 23.05.2016. As against the order in the writ petition, the petitioner herein had filed WA.No.780 of 2019. The said Writ Appeal came up for consideration before a Division Bench and by judgement dated 12.03.2019, the Division Bench had directed that



an Officer not below the rank of Additional Registrar of Co-operative Societies should examine the entire issue with respect to the loans which had been disbursed. The learned counsel for the petitioner claimed that the Division Bench had not directed enquiry with respect to alleged grabbing of property. With respect to the said allegation raised by the learned counsel for the petitioner, it must be stated that the entire issue arose owing to the petitioner, her family members and her husband executing a Power of Attorney in the name of the 7th respondent on 11.12.2017. The petitioner, on the date of filing of the writ petition was aged about 42 years. The writ petition was filed in the year 2019. It could be therefore reasonably presumed that she was at the age 40 years in the year 2017 when the Power of Attorney had executed. There is no relief sought to cancel the Power of Attorney. On the other hand, on the basis of Power of Attorney, several other documents had been executed. There is no relief sought that all those documents could be declared as null and void.

6.The writ Court can never examine those issues. The Writ Court never examine whether Power of Attorney was executed by the petitioner owing to circumstances alleged or the petitioner and her family and her husband or of them together did not know the consequences of execution of execution of such



Power of Attorney and had executed the same. These are all facts which can never be examined by this Court. If the petitioner seeks examination of all these aspects by the Additional Registrar of Co-operative Society, the petitioner must first realise that the entire issue arose by her executing a Power of Attorney and therefore, she must state the circumstances under which such Power of Attorney had been executed. Additionally, the petitioner had also not sought any direction from the Division Bench in WA.No.780 of 2019 to expand the scope of enquiry already directed to also include the relief sought in the present writ petition. Very cleverly, the writ petition appears to have been filed on a separate issue after the earlier Writ Petition had attained finality. It is evident that the writ petitioner is knocking at the door raising one claim after the other particularly when she is an accused in a criminal case registered for misappropriation of funds from the Co-operative Society.

7.I am not prepared to grant any direction as sought by the writ petitioner.

The Writ Petition stands dismissed. No costs.

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Index : Yes/No

NCS : Yes/No

KP



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