

(1996) 10 MAD CK 0038

In the Madras High Court

Case No : C.R.P. No. 3402 of 1991 and C.M.P. No. 17244 of 1991

Sathyanarayana

APPELLANT

Vs

Pallipattu Co-operative Land Development Bank Ltd. and
others

RESPONDENT

Date of Decision : 18-10-1996

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (1997) 88 CompCas 395

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : T.V. Ramanujam, T.V. Krishnamachari, S.M. Pandian, K. Ravi and
Manlal, for the Appellant; G. Rajagopalan, for the Respondent

Judgement

P. Sathasivam, J.—The then Special Officer, Pallipattu Co-operative Land Development Bank, against whom an awards for Rs. 16,197.40

passed by the arbitrator, confirmed by the Co-operative Tribunal in S.T.C.A. No. 248 of 1986 is the petitioner in the above civil revision petition

filed under article 227 of the Constitution of India.

2. The facts leading to the filling of the present revision are narrated hereunder :

In order to provide relief to indebted agriculturists, the Government to Tamil Nadu by G.O.Ms. No. 389, Co-operative, dated September 6,

1984, brought forward a scheme in which certain reliefs were granted to indebted agriculturists. As per the said Government order, the interest on

the principal overdue and the penal interest as on June 30, 1984, shall be waived provided the entire outstanding dues as on June 30, 1984, are

fully paid before December 31, 1984. It is further seen in the later Government order, namely G.O.Ms. No. 43, Co-operation Department, dated

January 28, 1995, the concession mentioned in the earlier Government order has been extended for payment of the principal amount by March 31,

1985. In other words, if any debtor of co-operative loans pays the entire principal amount before March 31, 1985, the interest on the principal

over dues and penal interest have to be waived. Taking advantage of the Government orders referred to above, one P. Rajagopal Naidu who had

borrowed loan from the first respondent, namely, Pallipattu Co-operative Development Bank has fully discharged his loan on March 30, 1985,

i.e., one day prior to the cut-off date. In view of the payment made by the borrower, the petitioner who was Special Officer of the said bank

issued a certificate. The said certificate is extracted hereunder :

CERTIFICATE

This is to certify that Thiru P. Rajagopal Naidu, S/o Munusamy Naidu of Neidgallu village, has fully discharged his loan (Loan No. 338/Normal) to

our bank on March 30, 1985. But his loan account is subject to the penal interest waiver concession debited to suspense recoverable account and

clear loan certification by the Land Valuation Officer, Tiruttani.

(Sd).....,

8-4-1985.

Special Officer.

Before proceeding further, it is also useful to refer that before sanctioning any loan a duty is cast on the Land Valuation Officer attached to the

bank to certify and assessee the value of hypothecation of the borrower. Only on the basis of the certificate the bank advances loan. According to

the petitioner, the same was followed in the case also and inasmuch as the borrower has complied with the concession as announced by the

Government in the above mentioned Government orders, he has issued a certificate stating that his loan (Loan No. 338) has been fully discharged.

He has also incorporated a condition that the said loan amount is subject to the penal interest waiver concession debited to suspense recoverable

account and clear loan certification by the Land Valuation Officer, Tiruttani. It is also further seen that the Land Valuation Officer, Tiruttani, on

October 4, 1985, has certified with regard to the loan borrowed by P. Rajagopal Naidu, which is as follows :

Cleared loan certified.

(Sd.) Balaraman,

Land Valuation Officer, Tiruttani,

4-10-1985.

3. In spite of the above facts, at the instance of the first respondent bank, an arbitration proceeding was initiated and by award dated April 20,

1988, the arbitrator has passed the following award :

That the defendant, Thiru M. Sathyanarayana, the then Special Officer of the Pallipattu Co-operative Land development Bank Ltd., Pallipattu, to

pay the plaintiff Rs. 16,197.40 (rupees sixteen thousand and one hundred and ninety-seven and paise forty only) with interest thereon at 12.5 per

cent. per annum from April 20, 1988, until realisation.

4. Aggrieved by the award of the arbitrator, the petitioner herein filed an appeal S.T.C.A. No. 248 of 1988 before the Special Tribunal for Co-

operative Cases, Madras. The Tribunal by order dated October 14, 1991, confirmed the award of the arbitrator and dismissed the appeal.

5. Against the dismissal of the appeal by the Tribunal, the petitioner has filed the present revision before this court.

6. Mr. T.V. Ramanujam, learned senior counsel for the petitioner, after pointing out the two Government orders, viz. G.O.Ms. No. 389, Co-

operation, dated September 6, 1984 and G.O.Ms. No. 43 Co-operation Department, dated January 28, 1985, submits that since the borrower

namely, Rajagopal Naidu, has fully discharged his loan on March 30, 1985, that is prior to the cut-off date, that is December 31, 1984, the

certificate issued by the petitioner on April 8, 1985, when he was working as Special Officer is in accordance with law and there is no warrant to

initiate any proceedings against him. He also submits that since the certificate issued by the petitioner was in accordance with the Government

orders as well as subject to the clearance by certificate to be issued by the Land Valuation Officer, Tiruttani, there is no need to take any action

against the petitioner herein. He further submits that the arbitrator has not adduced any reason for passing the award and the Appellate Co-

operative Tribunal without looking into the subsequent Government order, namely, G.O.Ms. No. 43, Co-operation department, dated January 28,

1985, extending the time limit up to March 31, 1985, for payment of the principal amount, erroneously dismissed the appeal. Hence, he prays for interference in this revision. On the other hand, Mr. G. Rajagopal, learned counsel for the first respondent, after taking me through the order of the Tribunal, submits that in view of the factual conclusion reached by the arbitrator as well as by the appellate authority, it is not for this court to interfere under article 227 of the Constitution of India. He further submits that even though the relevant records were not placed before the Tribunal by placing xerox copies of such records, there is no warrant to interfere with the concurrent findings of both the authorities. I have carefully considered the rival submissions.

7. Since there is no dispute with regard to the scheme formulated by the Government in order to ameliorate indebted agriculturists, I am not once again producing the two Government orders, namely, G.O.Ms. No. 389, Co-operation, dated September 6, 1984, and G.O.Ms.No. 43, Co-operation Department, dated January 28, 1985. On the basis of the said Government orders, the borrower had rightly discharged his entire loan (Loan No. 338) on March 30, 1985. The petitioner, who was the Special Officer, In view of the fact that the Land Valuation Officer has to further certify, has rightly added one more cause that the said loan account is subject to the penal interest waiver concession debited to suspense recoverable account and clear loan certification by the Land Valuation Officer, Tiruttani. Further, it is also seen that on October 4, 1985, the Land Valuation Officer, Tiruttani, has also issued a certificate stating that the loan of P. Rajagopal, has been cleared. In view of the above mentioned factual position, the conclusion of the Tribunal, namely :-

* * *

8. The Tamil version is factually incorrect. Moreover, the Appellant Tribunal has proceeded on the basis of the earlier Government order, namely, G.O.Ms. No. 389, Co-operation, dated September 6, 1984. A reading of the Tribunal's order further shows that it was not at all aware of the subsequent Government order, namely, G.O.Ms. No. 43, Co-operation Department, dated January 18, 1985, extending the time up to March 31, 1985, for compliance. In view of the later Government order, the payment of entire loan by the borrower, P. Rajagopal Naidu, on March 30,

1985, is in order and he is entitled to get all the benefits as per the earlier Government order. Unfortunately, this was not brought to the notice of the Tribunal. It is very sad to note that before the Tribunal the records relating to the first authority, namely, arbitrator has not been placed. Even though the first authority has not sent the necessary records to the appellate authority at the time of hearing at least the Government Pleader who appeared for the Deputy Registrar (second respondent) before the Tribunal could have taken some steps to secure the records from the first authority. As rightly pointed out by Mr. T.V. Ramanujam, learned senior counsel, the order of the arbitrator does not contain any reason for his conclusion. Likewise, the Tribunal has also disposed of the appeal without any records as well as without reference to the later Government order referred to above. In those circumstances, Mr. G. Rajagopal requested that in the interest of safeguarding revenue, the matters may be remitted either to the arbitrator or at least to the Tribunal for fresh disposal. I am unable to accept his request for the simple reason that in the light of the two Government orders referred to above, the payment of the entire loan amount on March 30, 1985, by the borrower is fully in accordance with the directions issued by the Government. Apart from that, the petitioner herein, who was a special officer, has taken care to incorporate a condition that the said loan account is subject to the penal interest waiver concession debited to suspense recoverable account and clear loan certification by the Land Valuation Officer, Tiruttani. As stated earlier, the Land Valuation Officer has also certified that it is a cleared loan. In such circumstances, inasmuch as the debtor has complied with the conditions prescribed by the Government in the above referred two Government order and obtained concession and the same has been properly recorded and certificate to that effect has been issued by the petitioner herein, there is no need to remit the matter once again for fresh disposal as requested by learned counsel for the first respondent. The petitioner has already suffered much agony for more than years. In those circumstances, the civil revision petition is allowed. However, there will be no order as to costs. C.M.P. No. 17244 of 1991 is dismissed.