

(2011) 07 MAD CK 0344

Madras High Court (Madurai Bench)

Case No: Suo Motu Cont. P (MD) No. 170 of 2011 in Cont. P. (MD) No. 588 of 2010 in Writ
Petition (MD) No. 8158 of 2010

In Re: G. Kanniappan, Regional
Manager

APPELLANT

Vs

RESPONDENT

Date of Decision: July 19, 2011

Hon'ble Judges: R. Sudhakar, J

Bench: Single Bench

Advocate: K. Balasubramanian, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

R. Sudhakar, J.

The Government in G.O. Ms. No. 15, Adi-Dravidar and Tribal Welfare Department (SCP), dated 23.01.2004, in order to provide livelihood for poor scheduled caste and scheduled tribes of Tamil Nadu, has announced a Land Purchase Scheme during budget 2003-04. The Tamil Nadu Aadidiravidar Housing and Development Corporation, in short, THADCO was appointed as Nodal Agency to implement the scheme. The main objective of the scheme is as follows;

- a) To enable the landless Scheduled Castes/Scheduled Tribes tillers to own land;
- b) To make small and marginal holdings economically viable;
- c) To bring fallow and waste lands under cultivation;
- d) To increase agricultural production and productivity and e) To empower Scheduled Castes/ Scheduled Tribes women.

2. As per Clause 4 of the scheme, the beneficiary can purchase and own a maximum of 5 acres of dry land or 2.50 acres of wet land including the land, if any, already owned by the beneficiary. The maximum unit cost was fixed at Rs. 2 lakhs and from this amount, one lakh was fixed for the purchase of land and the balance of one lakh

was fixed for land development, irrigation, etc. The financial assistance was in the rate of 50% subsidy and 50% term loan. The subsidy component should be provided by TAHDCO from Special Central Assistance to the Bank, which will in turn release the entire project finance to the beneficiary. The District Selection Committee will select the beneficiary. The Petitioner is one such beneficiary. The Petitioner has submitted an application form on 22.08.2008 for grant of assistance in terms of G.O. Ms. No. 15, dated 23.01.2004. The application was submitted by the Petitioner seeking assistance under three heads i.e. land purchase, land development and land irrigation. There is no specific request for loan for animal husbandry. In proceedings Na. Ka. No. A2/LPS/181/2008, dated 29.01.2009, the assistance was fixed as follows; For bore-well and irrigation -Rs.69,300/-with 50; subsidy and 50% loan.

3. The said proceedings was forwarded to the Manager, State Bank of India, Kariyapatti so as to enable the Petitioner to process Form III with the help of the Bank for further action. The said proceeding was communicated to the writ Petitioner and she received the same on 31.01.2009 and a copy of the same has been enclosed in the typed-set at serial No. 10 in Contempt Petition No. 588 of 2010. The Petitioner has not challenged the order sanctioning assistance as above and failed to approach the Bank. Thereafter, on 17.07.2009, the District Manager, THADCO, sent a letter to the State Bank of India, Kariyapatti Branch enclosing Form III and asking the Bank to issue the provisional sanction order. By the proceedings in A3/946/2006, dated 02.07.2009, (which referred to as 02.09.2009 in W.P. No. 8158 of 2010), the District Manager of THADCO sent a reply to the Petitioner stating that the loan application has been sent to the State Bank of India, Kariyapatti Branch and as and when the provisional sanction order is received, the assistance will be released as per the scheme. This was challenged in W.P. No. 8158 of 2010 and disposed of on 01.07.2010 directing the Regional Manager, THADCO, to pass appropriate orders on the application submitted by the Petitioner within 30 days from the date of receipt of the order. In response to the order of this Court, dated 01.07.2010, i.e. within 30 days, the District Manager, THADCO sent a communication to the Petitioner with a copy marked to the Manager, State Bank of India, Kariyapatti stating that as and when the provisional sanction is granted by the Bank, all the steps will be taken to get assistance and therefore, the Petitioner has to approach the State Bank of India, Kariyapatti Branch. The said communication was refused by the Petitioner. The contemnor/Respondent has enclosed in the typed-set a few of the postal covers, showing that the Petitioner refused to receive, which read as follows;

Gone to work" on 30.07.2010, 31.07.2010 & 02.08.2010, "owner refuses to receive" on 04.08.2010 & "owner refuses to receive" on 30.09.2010. Hence, the tapal returned.

4. The Petitioner, thereafter, filed a Contempt Petition No. 588 of 2010 through one Counsel by name Mr. S.M.S. Johnny Basha and after hearing the Respondent, the

Regional Manager, who placed on record the letter, dated 27.07.2010, which was refused by the Petitioner on several occasions and also considering the contents of the letter, dated 27.07.2010, which have been referred to above, the contempt petition was closed. Thereafter, the Petitioner appeared as party-in-person and mentioned before the Court and by order dated 18.02.2011, the contempt petition was reopened suo motu and numbered as Suo Motu Cont.P.(MD). No. 170 of 2011 and the contemnor/Respondent appeared and an affidavit has been filed by one Selvaraj, the present District Manager of THADCO, who is also present today in the Court along with all records.

5. At the outset, it is stated by the present incumbent that he has joined as the District Manager only on 18.10.2010. The contemnor/Respondent initially referred to the letter dated 29.01.2009 sanctioning of the loan in terms of G.O. Ms. No. 15, dated 23.01.2004 and the subsequent letters and communications addressed to the Petitioners, which have been refused by the Petitioner and stated that it resulted in initiation of the suo motu contempt proceedings. There is no mistake or inaction on their part. The Petitioner is claiming more than the entitlement as the G.O. referred to above.

6. The Petitioner, party-in-person, contended that her loan application was filed for land purchase, irrigation facility and animal husbandry, whereas the amount specified in the sanction order for a sum of Rs. 69,300/- is not correct and therefore, the claim of the Petitioner was not properly considered. She stated that she claimed nearly 5 lakhs on various heads.

7. At this stage, this Court is not inclined to go into the veracity of the loan assistance granted to the Petitioner, since the Petitioner has failed to challenge the order, dated 29.01.2009, which, admittedly, has been served on the Petitioner as could be seen from the copy of such proceedings enclosed in the typed-set filed by the Petitioner along with the Contempt Petition No. 588 of 2010 at serial No. 10. Since the Petitioner has not chosen to challenge the same, she cannot now question the method, under which the loan assistance was sanctioned, in the contempt proceedings. In any event, on going through the loan application read with G.O. Ms. No. 15, dated 23.01.2004, the Petitioner's option is to challenge the 29.01.2009 communication or seek further relief as per the G.O. if entitled by making further plea.

8. The Petitioner will be entitled to claim one lakh towards purchase of land and one lakh towards irrigation, land reforms and animal husbandry as per G.O.15, dated 23.01.2004. The assistance cannot exceed two lakhs, that is one lakh for land purchase and another one lakh on the other heads. Therefore, the Petitioner will have to justify the sum of Rs. 5 lakhs now pleaded before the Court.

9. Having failed to challenge the order, dated 29.01.2009, the Petitioner cannot blame THADCO officers stating that they have not passed appropriate orders. The

proceedings, dated 29.01.2009, apparently has not been brought to the attention of this Court, when the learned Judge passed the order dated 01.07.2010 in W.P. No. 8151 of 2010 and also when the learned Judge initiated suomotu proceedings on 18.02.2011.

10. In such view of the matter, this Court finds no justification in proceedings against the contemnor/Respondent as they have already granted the loan assistance on 29.01.2009 in proceedings Na. Ka. No. A2/LPS/181/2008. Accordingly, the suo motu proceeding initiated against the contemnor/Respondent is dropped. The Petitioner is, however, given liberty to approach the District Manager, THADCO to seek assistance for land reclamation, irrigation development and animal husbandry as per the G.O. by submitting proper materials in support of the application and the same can be considered by the authority without reference to the earlier proceedings so as to do substantial justice to the Petitioner, who claims to be hailing from Adi Diravidar Community.

11. The contempt petition stands closed with the above observation. No costs.