

## IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2013

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

Writ Petition Nos.25059 and 25772 of 2012

- |             |  |
|-------------|--|
| 1.R.Indrani | ... 1 <sup>st</sup> petitioner in W.P.25059/12 |
|             | Petitioner in W.P.25772/12                     |
| 2 R.Preetha | ... 2 <sup>nd</sup> petitioner in W.P.25059/12 |

Vs.

1. The Deputy Registrar of Co-op. Societies,  
Tirupattur Circle, Vellore District.
2. The Special Officer,  
Girisamudhram Primary Agricultural  
Co-operative Bank,  
Girisamudhram Post, Vaniyambadi Taluk,  
Vellore District.
3. K.Rajendran .. Respondents in both W.Ps.

**Prayer in W.P.No.25059 of 2012:** Writ Petition filed under Article 226 of Constitution of India, praying for a Writ of Mandamus, directing the 1<sup>st</sup> respondent to withdraw the conditional attachment made in CEP.No.223 of 2006-07, dated 27.07.2007, under Section 167 of the Tamil Nadu Co-operative Societies Act, 1983, of the fixed deposits, dated 20.11.2004, 11.03.2005 and 31.03.2006, for Rs.11 Lakhs, standing in the name of the petitioners in the 2<sup>nd</sup> respondent society, in view of the discharge of the petitioners from the arbitration claim by Award in Dispute No.1844/2007-08 Sa.Pa., dated 05.07.2012 of the 1<sup>st</sup> respondent, with further direction to the 2<sup>nd</sup> respondent Society to repay the fixed deposits, with upto date interest.

**Prayer in W.P.No.25772 of 2012:** Writ Petition filed under Article 226 of Constitution of India, praying for a Writ of Mandamus, directing the 1<sup>st</sup> respondent, to withdraw the conditional attachment of the petitioner's immovable properties, made in CEP.No.223 of 2006-07, dated 27.07.2007, exercising the power under Rule 140(3)(c) of the Tamil Nadu Co-operative Societies Rules, 1988, in view of the discharge of the petitioner from the arbitration claim by award in Dispute No.1844/2007-08 Sa.Pa., dated 05.07.2012 of the 1<sup>st</sup> respondent.

For Petitioner	: Mr.S.Venkataraman
For Respondents 1 & 2	: Mr.L.P.Shanmugasundaram, Special Government Pleader
For 3 <sup>rd</sup> Respondent	: Mr.T.Kishore Kumar

### **ORDER**

The petitioner is the wife of the 3<sup>rd</sup> respondent. Her husband was employed as the Secretary of Girisamudhram Primary Agricultural Co-operative Bank, Girisamudhram Post, Vaniyambadi Taluk, Vellore District. During the period 2006-08, he was under suspension. Lateron, he was dismissed from service, for certain financial irregularities, alleged to have been committed by him, in the Society, in connection with waiver of interest on loans, to the borrowers. The petitioner has nothing to do with the said allegations and that she was not a member of the society.

2. While that be so, the petitioner was surprised to receive a arbitration notice, dated Nil, under Section 90 of the Tamil Nadu Co-

operative Societies Act, 1983, from the Deputy Registrar of Co-operative Societies, Tirupattur Circle, Vellore District, 1<sup>st</sup> respondent herein, alleging that the petitioner was jointly responsible, along with her husband, in the Arbitral proceedings, for the loss of Rs.29,99,823/-, with interest, in the matter of waiver of interest, during the period 2002-03. Pending arbitration proceedings, the 1<sup>st</sup> respondent, has issued a notice, dated 27.07.2007, ordering a conditional attachment of immovable properties of the petitioner, under Section 167 of the Tamil Nadu Co-operative Societies Act, r/w. Rule 140(1) of the Rules framed thereunder.

3. Being aggrieved by the conditional attachment, the petitioner has preferred W.P.Nos.29521 and 29663 of 2007 and that the same were dismissed on 25.10.2007, on the ground that the petitioners could avail an appeal remedy, after the passing of the final award. Review petitions filed were also dismissed on 10.04.2008, with some modifications to the earlier order, dated 25.10.2007. Subsequently, summons were issued to the petitioner, by the 1<sup>st</sup> respondent, to appear for an enquiry. But the petitioner ignored the same. The last enquiry was held on 29.12.2008. The petitioner did not appear on that date, so as to defend herself or authorised anybody to appear on her behalf, in the arbitration proceedings. She remained ex parte.

4. The petitioner has further submitted that since 29.12.2008, there was no information or notice to her. While so, she came to know that the 1<sup>st</sup> respondent has passed an award in Arbitration Dispute No.1844/2007-08, on 05.07.2012, holding that the 3<sup>rd</sup> respondent, viz., her husband alone was responsible and liable for the alleged loss caused to the society and no finding was recorded against the petitioner. In the award, dated 05.07.2012 in Arbitration Dispute No.1844/2007-08, the 1<sup>st</sup> respondent has directed that a sum of Rs.29,99,823/-, should be recovered, with 21% interest, from the 3<sup>rd</sup> respondent alone. Thus, according to the petitioner, in the said award, dated 05.07.2012, the petitioners have been exonerated from their liability.

5. Inasmuch as the immovable properties in the name of the petitioners, came to be conditionally attached under Section 167 of the Tamil Nadu Co-operative Societies Act, 1983 read with Rule 140(1) of the Tamil Nadu Co-operative Societies Rules, 1988, pending Arbitration Claim of the 2<sup>nd</sup> respondent-Society and by virtue of their exoneration from liability, it is incumbent on the part of the Deputy Registrar of Co-operative Societies, Thirupattur Circle, Vellore District, 1<sup>st</sup> respondent herein, to withdraw the attachment. Having regard to the discharge of the petitioner from the arbitration claim, Dispute No.1844/2007-08 Sa.Pa., dated 05.07.2012, of the 1<sup>st</sup> respondent, the petitioners have

filed W.P.No.25772 of 2012, for a Mandamus, directing the 1<sup>st</sup> respondent, to withdraw the conditional attachment of the petitioner's immovable properties, made in CEP.No.223 of 2006-07, dated 27.07.2007, exercising the power under Rule 140(3)(c) of the Tamil Nadu Co-operative Societies Rules, 1988. In both the present writ petitions, Mrs.R.Indrani, wife of the 3<sup>rd</sup> respondent and her daughter, Ms.R.Preetha, have prayed for a Mandamus, directing the 1<sup>st</sup> respondent to withdraw the conditional attachment of the fixed deposits, dated 20.11.2004, 11.03.2005 and 31.03.2006 respectively, for Rs.11 Lakhs, standing in the name of the petitioners, made in CEP.No.223 of 2006-07, dated 27.07.2007, under Section 167 of the Tamil Nadu Co-operative Societies Act, 1983, consequent upon the discharge of the petitioners, from the arbitration claim in Dispute No.1844/2007-08 Sa.Pa., dated 05.07.2012 of the 1<sup>st</sup> respondent, with a further direction to the 2<sup>nd</sup> respondent Society, to repay the fixed deposits, with interest upto date.

6. The petitioners have two deposits, one in the name of the 2<sup>nd</sup> petitioner for Rs.8,00,000/- and another, in the name of the 1<sup>st</sup> petitioner, for Rs.3,00,000/-. According to the petitioners, they have their own sources, from which, deposits were made, in the 2<sup>nd</sup> respondent-Society. Since the husband of the 1<sup>st</sup> petitioner was employed in the 2<sup>nd</sup> respondent-Society, the amounts were deposited in the

Society. The petitioners have further submitted that if the said amount was ill-gotten, they would not have deposited in the same, in the 2<sup>nd</sup> respondent-Society, where the 3<sup>rd</sup> respondent was employed. According to them, the deposits were made on 20.11.2004, 11.03.2005 and 31.03.2006 respectively, with their own source of income.

7. Initially, the Deputy Registrar of Co-operative Societies, Tirupattur, Vellore District, has filed a counter affidavit, dated 31.01.2013, contending inter alia that the third respondent, the then Secretary of C-1514, Girisamudhram Primary Agricultural Co-operative Credit Society, husband of the petitioner, had misappropriated Rs.29,99,823/- from the society and after enquiry, under Section 81 of the Tamil Nadu Co-operative Societies Act, disciplinary action was taken against him and that he was dismissed from service on 08.01.2008. While taking steps to recover the loss caused to the Society, the third respondent has made attempts to sell the assets, which stood in the name of the petitioners, to evade attachment. Therefore, a conditional attachment was made under section 167 of Act, to safeguard the interest of the society. Writ Petitions preferred by the petitioners, in W.P.No.27141, 27142 and 29663 of 2007, were already dismissed. Review Petitions preferred by them were also dismissed. According to the Deputy Registrar of Co-operative Societies, Thirupattur, Vellore District,

the amount lying in the fixed deposits, in the name of the 1<sup>st</sup> petitioner and her minor child, were deposited by 3<sup>rd</sup> respondent, out of the misappropriated funds of the Society and therefore, the society has filed Arbitration claim on 14.03.2007, before the Deputy Registrar, Tirupattur. After giving proper opportunities to the 3<sup>rd</sup> respondent, the Deputy Registrar, Tirupattur, 1<sup>st</sup> respondent herein, has passed orders in ARC No.1844/2007-08, Sa.Pa., dated 05.07.2012.

8. According to the 1<sup>st</sup> respondent, the petitioner and her minor child, were not the earning members, nor inherited any property from the 1<sup>st</sup> petitioner's parents and therefore, the properties and deposits in the name of petitioners, are nothing but the amounts, diverted from the funds of the society, by misusing the powers of the third respondent. In the arbitration claim in ARC.No.1844/2007-08, the third respondent was given sufficient opportunities on 14.09.2007, 02.12.2008, 16.12.2008 and 29.12.2008 respectively and upon perusal of the relevant records and taking note of the admission of the third respondent, orders were passed in ARC No.1844/2007-2008 on 05.07.2012 to recover the suffered loss of Rs.29,99,823/- together with interest.

9. The 1<sup>st</sup> respondent has further submitted that as the deposits available in the bank, in the names of the petitioner and her minor child, to an extent of Rs.11,00,000/-, were insufficient to satisfy the decreed

amount, further attachment of the properties, is also necessiated. According to the 1<sup>st</sup> respondent, the claim of the petitioners that the properties attached are self acquired properties, has no substance, as the petitioners have no source of income to purchase ay property or to deposit the amounts, in the 2<sup>nd</sup> respondent-Bank.

10. Thereafter, on 28.03.2013, another counter affidavit has been filed by the 1<sup>st</sup> respondent, contending inter alia that, on the earlier occasion, as it was specifically contended by the learned counsel for the petitioners that no orders have been passed by the 1<sup>st</sup> respondent, insofar as the proceedings initiated by the 2<sup>nd</sup> respondent, is concerned, by invoking Section 90 of the Tamil Nadu Co-operative Societies Act, r/w. Rule 107 of the Rules, against the petitioners in Thava No.1844-A/2007-08 Sa.Pa.

11. The 1<sup>st</sup> respondent has further submitted that the proceedings No.1844-A/2007-08, summons were served on the petitioners, as well as, on the third respondent, husband of the 1<sup>st</sup> petitioner and father of the 2<sup>nd</sup> petitioner respectively, on several occasions, viz., 21.08.2007, 21.11.2008, 01.12.2008 and finally on 08.12.2008 and they were directed to appear for enquiry on 16.12.2008. Based on which, the 3<sup>rd</sup> respondent appeared on 16.12.2008 and 17.12.2008 and made a statement that he was representing, on behalf of



his wife and daughter also, i.e., the petitioners. Thereafter, the 3<sup>rd</sup> respondent, after taking note of all the documents, filed by the 2<sup>nd</sup> respondent-Society, before the 1<sup>st</sup> respondent, sought for an adjournment, for the purpose of submitting his explanation/written submission, on behalf of the petitioners also. Thereafter on 29.12.2008, the 3<sup>rd</sup> respondent appeared before the Arbitrator, 1<sup>st</sup> respondent and gave a statement that he had perused all the documents in the abovesaid proceedings, for the purpose of defending the case, against himself and as well as the petitioners herein, in the capacity of their representative, and requested to adopt the statements/explanation filed by him, in another proceedings in Thava No.1844/2007-08, before the 1<sup>st</sup> respondent, as his defence and also as the defence of the petitioners herein, in proceedings No.1844-A/2007-08.

12. The 1<sup>st</sup> respondent has further submitted that after giving ample opportunities to both the sides and considering the above statements in proceedings No.1844-A/2007-08, by order, dated 03.01.2013, he has passed orders in surcharge proceedings in Thava No.1844-A/2007-08, confirming the liability of the petitioners, as well as the 3<sup>rd</sup> respondent and further directed the 2<sup>nd</sup> respondent-Society herein, to recover the misappropriated amount, from and out of the movables as well as immovable properties of the petitioners and also the

3<sup>rd</sup> respondent herein. Moreover, when the abovesaid order, dated 03.01.2013 in Arbitration Dispute No.1844-A/2007-08, of the 1<sup>st</sup> respondent was communicated, to the petitioners, as well as to the 3<sup>rd</sup> respondent, they have refused to receive the same, and therefore, the same was affixed in the premises of the petitioners, as well as the 3<sup>rd</sup> respondent, as early as on 04.01.2013 itself.

13. According to the 1<sup>st</sup> respondent, the present writ petitions are not maintainable, as there is an alternative remedy, under Section 152 of the Tamil Nadu Co-operative Societies Act, 1983 and therefore, by invoking the said provision, the petitioners ought to have filed an appeal, as against the order, dated 03.01.2013 in Arbitration Proceedings No.1844-A/2007-08, before the Co-operative Tribunal. According to 1<sup>st</sup> respondent, as the 3<sup>rd</sup> respondent is the sole breadwinner of the family and all the immovable properties and fixed deposits in the 2<sup>nd</sup> respondent-Society, stood in the name of the petitioners, have been earned only by the 3<sup>rd</sup> respondent and that the same has been confirmed after analysing the encumbrance certificate of the properties, as well as the period of deposits and therefore, there is no illegality or infirmity in attaching the deposits of the petitioners.

14. The Special Officer, Girisamudhram Primary Agricultural Co-operative Bank, Girisamudhram Post, Vaniyambadi Taluk, Vellore, 2<sup>nd</sup>

respondent has also filed a counter affidavit on the same lines, as that of the 1<sup>st</sup> respondent.

15. On the above pleadings and referring to the records of proceedings, Mr.S.Venkataraman, learned counsel for the petitioners submitted that the writ petitions came up for admission on 14.09.2012. On that day, the 1<sup>st</sup> respondent has filed a counter affidavit in the open Court on 31.01.2013. The matter was called on 27.02.2013, it was posted for orders on 01.03.2013. On the said date, Mr.T.K.Prabhakaran, Deputy Registrar of Co-operative Societies, Tirupattur Circle, Vellore District, has filed another counter affidavit on 28.03.2013, stating that an award has been passed on 03.01.2013, vide proceedings in Thava No.1844-A/2007-08, in which, liability has been fixed on the petitioners, as well as on the 3<sup>rd</sup> respondent and in the said award, the Deputy Registrar of the Co-operative Societies, Thirupattur Circle, Thirupattur, Vellore District, 1<sup>st</sup> respondent, has also directed the 2<sup>nd</sup> respondent-Society, to recover the misappropriated amount, from and out of the movable, as well as immovable properties of the petitioners and the 3<sup>rd</sup> respondent. He further submitted that earlier, in the counter affidavit filed by the very same person on 31.01.2013, nothing was mentioned about the award, dated 03.01.2013, in Thava No.1844-A/2007-08.

16. According to the learned counsel for the petitioners, the subsequent award, dated 03.01.2013, in Arbitration Dispute No.1844-A/2007-08 is manipulated, behind the back of the petitioners and it is nothing but a cooked up award by the 1<sup>st</sup> respondent. He also submitted that the petitioners were not issued with any notices, nor they were made aware of the award, dated 03.01.2013, in Arbitration Dispute No.1844-A/2007-08. According to him, the reason assigned in the counter affidavit filed on 28.03.2013, by Mr.T.K.Prabakaran, Deputy Registrar of Co-operative Societies, Tirupattur Circle, Tirupattur, Vellore District, that by inadvertence, the subsequent award, dated 03.01.2013, was not mentioned in the counter affidavit, filed on 31.01.2013, should not be accepted, as the subsequent award is only a manipulated award.

17. Learned counsel for the petitioners further submitted that both the petitioners have not received any notice or summons, in the subsequent arbitral proceedings in Thava No.1844-A/2007-08, dated 03.01.2013, nor they have authorised anybody to appear, on their behalf. As the 2<sup>nd</sup> respondent has manipulated the award in Thava No.1844-A/2007-08, dated 03.01.2013, after filing of the writ petitions, according to the petitioners, there is no need to challenge the same. On the contrary, no sooner the petitioners were absolved of their liability in Thava No.1844/2007-08 Sa.Pa., dated 05.07.2012, the conditional

attachment of their properties, made under Section 167 of the Tamil Nadu Co-operative Societies Act, r/w. Rule 140(1) of the Rules framed thereunder, ought to have been raised by the respondents 1 and 2, and in the abovesaid circumstances, the petitioners are entitled to the relief sought for, in both the writ petitions.

18. As regards the allegation of manipulation, non-service of summons in the subsequent proceedings and ignorance of the award made in Thava No.1844-A/2007-08, dated 03.01.2013, this Court directed the learned Additional Government Pleader to produce the relevant files. Pursuant to the directions, records were produced.

19. Perusal of the record shows that an award has been passed in Thava No.1844/2007-08 Sa.Pa., dated 05.07.2012, discharging the petitioners. Files disclose that for the very same amount of Rs.29,99,823/- with interest, under various items, an arbitration claim in Dispute No.1844-A/2007-08, has been raised before the Deputy Registrar, Thiruvannamalai and notice, dated 21.08.2007, has been sent to the 3<sup>rd</sup> respondent and the petitioners. Along with the said notice, a copy of the Arbitration Claim, dated 14.03.2007, has been sent. The same has been received on 16.02.2008 by the 3<sup>rd</sup> respondent, for himself and on behalf of the petitioners also. Photocopy of the abovesaid notice and claim are extracted hereunder:

பதிவுச்சல் ஒப்புதலுடையது / தனி நபர் மூலம் :

கூட்டுறவுச் சங்கங்களின் துணைப்பதிவாளர், திருப்பத்துார் அவர்களின் நடுவர் நீதிமன்ற அழைப்பாணை :

(1983ம் வருடத்திய தமிழ்நாடு கூட்டுறவுச் சங்கங்களின் சட்டம் 20வது சட்டம் பிரிவு 90ன் கீழ்).

முன்னிலை : திரு.உ.கலையசாரன்,  
துணைப்பதிவாளர்.

தாவா எண் : 1844/2006-07 சப

நாள் : 21.08.2007

-A

வேலூர்மாவட்டம், வாணியம்பாடி வட்டத்திலிருக்கும் சி.1514 கிராமத்திற்கும் தொடக்க வேளாண்மை கூட்டுறவு வங்கி சார்பாக மேற்படி வங்கியின் தனி அலுவலர் மற்றும் திரு.வி.இளங்கோ, செயலாளர் - வாதி.

மேற்படி மாவட்டம், மேற்படி வட்டம், வளையம்பட்டு கிராமத்தில் வசிக்கும் திரு.எம்.கிருஷ்ணசாமி மகன் திரு.கே.ராஜேந்திரன், செயலாளர் (தற்காலிக பணிநீக்கம்), கிராமத்திற்கும் தொடக்க வேளாண்மை கூட்டுறவு வங்கி-பிரதிவாதி-1, திரு.கே.ராஜேந்திரன் மகன் ஆர்.பிரிதா-பிரதிவாதி-2, திரு.கே.ராஜேந்திரன் மகனின் திருமதி.ஜி.இந்திராணி-பிரதிவாதி-3

ஆகிய 2 மக்கு எதிராக வழக்கு தொடர்ந்து இருக்கிறபடியால் இத்தாவா மனு குறித்து நீர் மறுமொழி சொல்லும் பொருட்டு 2007ம் ஆண்டு செப்டம்பர் மாதம் 14ம் தேதி (14.09.2007) காலை 11.00 மணிக்கு நீர் நம் முன்பாக துணைப்பதிவாளர் அலுவலகம், எண்.44 புதுப்பேட்டை மெயின் ரோடு, திருப்பத்துார் என்ற ஊராட்சத்திற்கு நேரில் வருமாறு 2 மக்கு இந்த அழைப்பாணை அனுப்பப்படுகிறது.

அப்படி நேரில் வருவதற்கு குறிப்பிட்டுள்ள தினமானது மேற்படி வழக்கை விசாரித்து முடிவு செய்வதற்காக நிர்ணயம் செய்யப்பட்டிருக்கிறபடியால், 2ம்முடைய சாட்சிக்கு ஆதாரமாக நீர் காட்ட உத்தேசித்துள்ள சகல பத்திரங்களையும் அன்று தாக்கல் செய்வதுடன், எவர்களுடைய சாட்சியங்களை தெரிவிக்க உத்தேசித்திருக்கிறீர்களோ அந்த சாட்சிகள் எல்லோரும் அந்த தேதியன்று வரவேண்டும். (தாவா நகல் இத்துடன் அனுப்பப்படுகிறது).

மேலே குறிப்பிட்டுள்ள தினத்தில் நீர் நேரில் வரத் தவறிவிட்டால், நீர் இல்லாமலிருக்கையிலேயே மேற்படி வழக்கை விசாரித்து முடிவு செய்யப்படும் என்று இதன் மூலமாக அறிவிக்கப்படுகிறது.

இன்று 2007ம் ஆண்டு ஆகஸ்ட் திங்கள் 21 ம் தேதி யில் நம்முடைய கையொப்பமும், அலுவலக முத்திரையும் இட்டு அனுப்பப்படுகிறது.

இணைப்பு : தாவா நகல்.

பெறுதல் :



துணைப்பதிவாளர்,  
திருப்பத்துார்.

2007  
21/8/07

- 1) திரு.கே.ராஜேந்திரன், த/பெ எம்.கிருஷ்ணசாமி, வளையம்பட்டு, வாணியம்பாடி வட்டம், வேலூர் மாவட்டம்.
- 2) ஆர்.பிரிதா, த/பெ திரு.கே.ராஜேந்திரன், வளையம்பட்டு.
- 3) திருமதி.ஜி.இந்திராணி, க/பெ திரு.கே.ராஜேந்திரன், வளையம்பட்டு.

நகல் : தனி அலுவலர், கிராமத்திற்கும் தொடக்க வேளாண்மை கூட்டுறவு வங்கி, வேலூர் மாவட்டம் - இவர் மேற்படி தேதியில் இவ்வழக்கு சம்மந்தமான ஆவணங்களுடன் நேரில் ஆலோசனைகளும்.



## நடுவர் தீர்ப்பு தாவா (Arbitration Claim)

துணைப்பதிவாளர் / நிர்வாக அலுவலர் நீதி மன்றம்.

மத்திய கூட்டுறவு வங்கி லிட்., வேலூர் / திருவண்ணாமலை.

நடுவர் தாவா எண். 1844 A 200 7 300 8

வேலூர்/தி. மலை மாவட்டம் வானியலாபுரம் கிராமத்திரம் கிராமம் பதிவு எண் 1514  
தொடக்க கூட்டுறவு வங்கியின் / வங்கியின் செயலாளர் திரு. அவர்கள் வாத்  
ஷெ. மாவட்டம் வானியலாபுரம் வணையாப் பட்டி கிராமத்தில் வசிக்கும்  
M. திருநாச்சாமி குமாரர் உ. எண். 15. இராஜகந்திரன் பிரதிவாதி 1  
ஷெ. மாவட்டம் வெள்ளாறு (தஞ்சாவூர் பகுதி) வணையாப் பட்டி கிராமத்தில் வசிக்கும்  
K. இராஜகந்திரன் மகன் குமாரர் உ. எண். R. பிரதீபா பிரதிவாதி 2  
வணையாப் பட்டி கிராமத்தில் வசிக்கும் K. இராஜகந்திரன் (இணைத்தப் பட்டிமன்றத்து) அண் 1173  
ஷெ. வங்கிற்கு ஷெ. பிரதிவாதிகள் சென்ற ம ஆண்டு மா தம்

தேதியில் ரூபாய் 1-க்கு எழுதிக் கொடுத்த வெண்ணிலை கடன் பத்திரப்படி நானது தேதி வரையில் வரவு வந்தது போக அசலில் ரூபாய் யும் தேதி வரை வட்டியில் ரூபாய் காசு ம் இதர செலவு வகையில் ரூபாய் காசு ம் ஆக மொத்தம் ரூபாய் காசு பாக்கி நிற்கின்றது. இந்தத் தொகையைப் பலமுறைகளில் கேட்டும் கொடுக்கவில்லை ஆகவே ஷெ. கடனை முடிவுகட்டி நடுவர் தீர்ப்பு தாவா நடவடிக்கைக்கு அனுப்பப்பட்டுள்ளது.

ஆகையால் தயவுசெய்து ஷெ. தொகையை பின்வட்டி செலவுடன் ஷெ. பிரதிவாதிகளால் கிடைக்கும்படி 1983-ம் ஆண்டின் தமிழ்நாடு கூட்டுறவு சங்கங்களின் சட்டத்தின் 90-வது பிரிவின்படி தீர்ப்புச் செய்யும்படி வேண்டுகிறேன். இதில் கண்ட விளக்கங்கள் உண்மையென்று உறுதியாய்ச் சொல்லுகிறேன்.

கடன் எண்                     

கடன் பேரேட்டின் நகல்

AS ON :

	செல்லு				பாக்கி		
	தேதி	அசல் ரூ.	வட்டி ரூ.	காசு	அசல் ரூ.	வட்டி ரூ.	காசு
1. உறுப்பினர் பெயர் :							
2. பத்திரத் தேதியும் பட்டுவாடாத் தேதியும் :							
3. கடன் தொகை ரூபாய் <u>2002-2003 ஆம் ஆண்டு</u> <u>2999823</u> <u>நிதியிடப்படி</u>	-	-	-		2999823	+ வட்டி	
4. ஆதாரம்-சொத்து அல்லது ஜாமீன் விவரம் :							
5. கடன் பெற்ற காரியம் :							
6. தவணை தவறிய தேதி							

ஆக மொத்தம் ரூபாய் 2999823 / காசு                      (எழுத்தால் ரூபாய் இலக்ஷ் நேபது உலகத் தொகுப்பு)

நேபது ஆலகீத் தொகுப்பு (தஞ்சாவூர்) செய்யப்பட்டுள்ளது.

இடம் கிராமத்திரம்

கேதி 14-3-07



செயலாளர்,  
A1514 கிராமத்திரம் தொடக்க  
வேளாண்மை கூட்டுறவு வங்கி லிட்..

20. One Mr.Savarimani, Office Office, has made an endorsement that the notice has been served on all the three respondents, in the claim petition. But on the backside of the notice, it is found that the arbitration number is given as 1844/06-07 Sa.Pa. Perusal of the records further disclose that Smt.G.R.Indrani and R.Pritha-Minor, the petitioners herein, have filed W.P.Nos.27141, 27142, 27148, 29521 and 29663 of 2007, for the following reliefs,

(i) Prayer in W.P.No.27141 of 2007: Writ of Certiorari, calling for the records, relating to the notice C.E.P.No.223 of 2006-07, dated 27.07.2007 of the 1<sup>st</sup> respondent herein and to quash the same, insofar as it attaches the immovable properties of the petitioner (Mrs.G.R.Indrani).

(ii) Prayer in W.P.No.27142 of 2007: Writ of Certiorarified Mandamus, calling for the records, relating to the notice C.E.P.No.223 of 2006-07, dated 27.07.2007 of the 1<sup>st</sup> respondent herein and to quash the same and to consequently direct the 2<sup>nd</sup> respondent to repay the fixed deposit of Rs.5 Lacs standing in the name of the petitioner (Mrs.G.R.Indrani) which matured on 30.03.2007 for repayment in fixed deposit receipt No.024564.



(iii) Prayer in W.P.No.27148 of 2007: Writ of Certiorarified Mandamus, calling for the records, relating to the notice C.E.P.No.223 of 2006-07, dated 27.07.2007 of the 1<sup>st</sup> respondent herein and to quash the same and to consequently direct the 2<sup>nd</sup> respondent to repay the fixed deposit of Rs.3 Lacs standing in the name of the petitioner (Minor Pritha) which matured on 10.03.2007 for repayment in fixed deposit receipt No.024501.

(iv) Prayer in W.P.No.29521 of 2007: Writ of Certiorari, calling for the records, relating to the claim/dispute No.1844 A of 2007-2008, dated Nil filed by the 2<sup>nd</sup> respondent society pending on the file of the 1<sup>st</sup> respondent; to quash the same, insofar as the petitioner (minor Pritha) is concerned.

(v) Prayer in W.P.No.29663 of 2007: Writ of Certiorari, calling for the records, relating to the claim/dispute No.1844 A of 2007-2008, dated Nil filed by the 2<sup>nd</sup> respondent society pending on the file of the 1<sup>st</sup> respondent; to quash the same, insofar as the petitioner (Mrs.G.R.Indrani) is concerned.

21. Like in the present writ petitions, the Deputy Registrar of Co-operative Societies, Tirupattur Circle, Tirupattur, Vellore District and the Special Officer, C-1514 Girisamudhram Primary Agricultural Co-operative Bank Ltd., Girisamudhram Post, Vaniyambadi Taluk, Vellore District, were respondents 1 and 2 in the abovesaid writ petitions. After considering the rival submissions, a learned Single Judge, by order, dated 25.10.2007, has dismissed the writ petitions, as hereunder:

“3. As per the Tamil Nadu Co-operative Societies Act, against all arbitration proceedings, a regular appeal will lie both in law and facts, that too, before a Judicial forum and it cannot be brushed aside as an effective forum. Further, for moving the Tribunal, there is no pre-condition of any deposit will arise. The Tribunal has powers to grant an interim order also. When there is an effective alternate remedy is available to the petitioners, the question of entertaining these writ petitions, does not arise. Further, the claim is made by the Co-operative Society in respect of attachment of the property, the transactions are only contractual in nature. This Court, by the exercise of its power under Article 226 of the Constitution of India, cannot invoke the writ jurisdiction and interfere with every

transaction that the petitioners have entered into with a Co-operative Society or the Arbitration awards made pursuant to the claim made by the Society.

4. Under these circumstances, these writ petitions are dismissed. If the petitioners institute any appeal in terms of Section 152 of the Tamil Nadu Co-operative Societies Act, 1983, against final Award made under Section 90, within a period of three weeks from the date of receipt of a copy of this order, the Co-operative Tribunal will entertain the same on merits, without reference to the limitation."

22. Review Application Nos.20 to 24 of 2008 have been filed to review the orders passed in the abovesaid writ petitions and perusal of the orders passed therein, shows that learned counsel for the petitioners had pointed out that, in Paragraph 1 of the orders made in the writ petitions, this Court had mistakenly observed that the petitioners were wife and minor daughter of one late K.Rajendran. It has been pleaded that Mr.K.Rajendran, is alive and therefore, the word "late" prefixed, before the name of Mr.K.Rajendran, has to be deleted. Learned counsel had also submitted that there is no award under Section 90 of the Tamil Nadu Co-operative Societies Act, 1983, so as to enable the petitioners therein to file an appeal, in terms of Section 152 of the Act. The said

position was also not disputed by the learned counsel for the respondents therein. In these circumstances, the learned Judge, while dismissing the review petitions, has clarified the orders made in the writ petitions, to the effect that as and when an award is passed in terms of Section 90 of the Act, the petitioners therein can avail such remedies are open to them under law. From the above, it could be deduced that there was another proceedings in Arbitration Dispute No.1844-A/2007-08, in respect of the same amount, and that the petitioners have prayed to quash the proceedings in Arbitration Dispute No.1844A/2007-08, dated Nil, of the Society.

23. Perusal of the files, at Page 89, shows that the Deputy Registrar of Co-operative Societies, Tirupattur Circle, Tirupattur, Vellore District, is stated to have sent a notice, dated 21.11.2008, in arbitration claim, Dispute No.1844-A/2007-08, to the petitioners herein and the 3<sup>rd</sup> respondent, directing them to submit their reply on 02.12.2008, by 11.45 A.M., in the Office of the Deputy Registrar of Co-operative Societies. It is also stated that in the event of any failure to appear and submit their reply, a decision would be rendered, on the basis of the available materials on record. Photocopy of the said notice is extracted hereunder:

பதிவச்சல் ஒப்பந்தவட்டையுட்கீதவி நபரி மூலம்

கட்டுறவுச் சங்கங்களில் ஐக்கைப்பதிவாளர், திருப்பத்தூர் அவர்களில் நடுவர் நீதி மன்ற அழைப்பாணை

(1983 ி வருட தமிழ் நாடு கட்டுறவுச் சங்கங்களில் சட்டம் பிரிவு 90 -ி கீழ்)

தாவா எக்.1844 - A /07-08 சப. நாதி: 21.11.08.

வேளா ி மாவட்டம், வானியம்பாடி வட்டத்திலிருக்கும் சி.1514 கிரிசமுத்திரம் தொ.வே.க.வங்கி என்ற முகவரியில் உள்ள செயலாளர் - வாதி.

மேற்படி மாவட்டம், மேற்படி வட்டம், வளையாம்பட்டு கிராமத்தில் வசிக்கும் திரு.எம்.கிருஷ்ணசாமி மகன் திரு.கே.ராஜேந்திரன் (நிரந்தர பதி நீக்கம்) - பிரதிவாதி 1

திரு.கே.ராஜேந்திரன் மகன் ஆர்.பிரதா - பிரதிவாதி 2

திரு.கே.ராஜேந்திரன் மகன் திருமதி. ஜி.இந்திராணி - பிரதிவாதி 3

ஆசிய உமக்கு எதிராக வழக்கு தொடர்ந்த இருக்கிற-படியால் இத்தாவா மது குறித்த நீர் மதுமொழி சொல்லும் பொருட்டு 2.12.08 ி தேதி காலை 11.45 மணிக்கு நீர் நம் முன்பாக ஐக்கைப்பதிவாளர் அவ்வகம், எக்.44 புதுப்பேட்டை மெய்கிரோடு, திருப்பத்தூர் என்ற விவாசத்திற்கு நேரில் வருமாறு உமக்கு இந்த அழைப்பாணை அனுப்பப்படுகிறது.

அப்படி நேரில் வருமாறு குறிப்பிட்டுள்ள திணைக்காது மேற்படி வழக்கை விசாரித்து முடிவு செய்வதற்காக நிரியம் செய்ப்பட்டிருக்கிறபடியால் உம்முடைய சாட்சிக்கு ஆதாரமாக நீர் காட்ட உத்தேசித்தினை சகல பத்திரங்களையும் அகற்ற தாக்கல் செய்வாட்டி, எவரிகளுடைய சாட்சியங்களை அந்த தெரிவிக்க உத்தேசித்திருக்கிறீர்களோ அந்த சாட்சிகள் எல்லோரும் அந்த தேதியிற் வர வேண்டும்.

மேலே குறிப்பிட்டுள்ள திணைத்தில் நீர் நேரில் வரத் த/வறி விட்டால், நீர் இல்லாமலிருக்கையிலேயே மேற்படி வழக்கை விசாரித்து முடிவு செய்ப்படுமென்று இதன் மூலமாக அறிவிக்கப்படுகிறது.

இன்று 2008 ி ஆக்டு 24/நவம்பர் மாதம் 24/ தேதியில் நம்முடைய கையொப்பமும், அவ்வக முத்திரையும் இட்டு அனுப்பப்படுகிறது.

அ/ந.

த.ப.

பெற்றநதி

1. திரு.கே.ராஜேந்திரன், த/பெ.எம்.கிருஷ்ணசாமி, வளையாம்பட்டு, வானியம்பாடி வட்டம், வேளா ி மாவட்டம்

24/11/08  
20.11.08

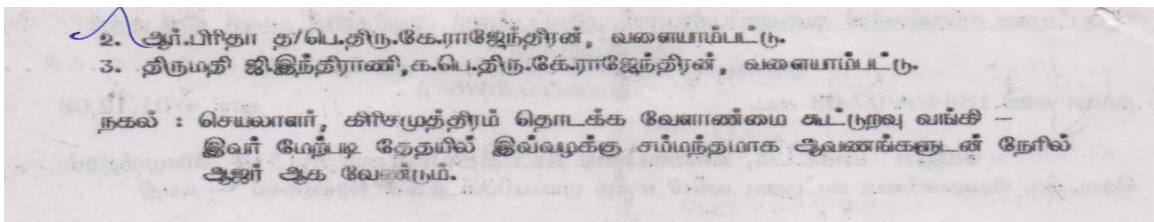
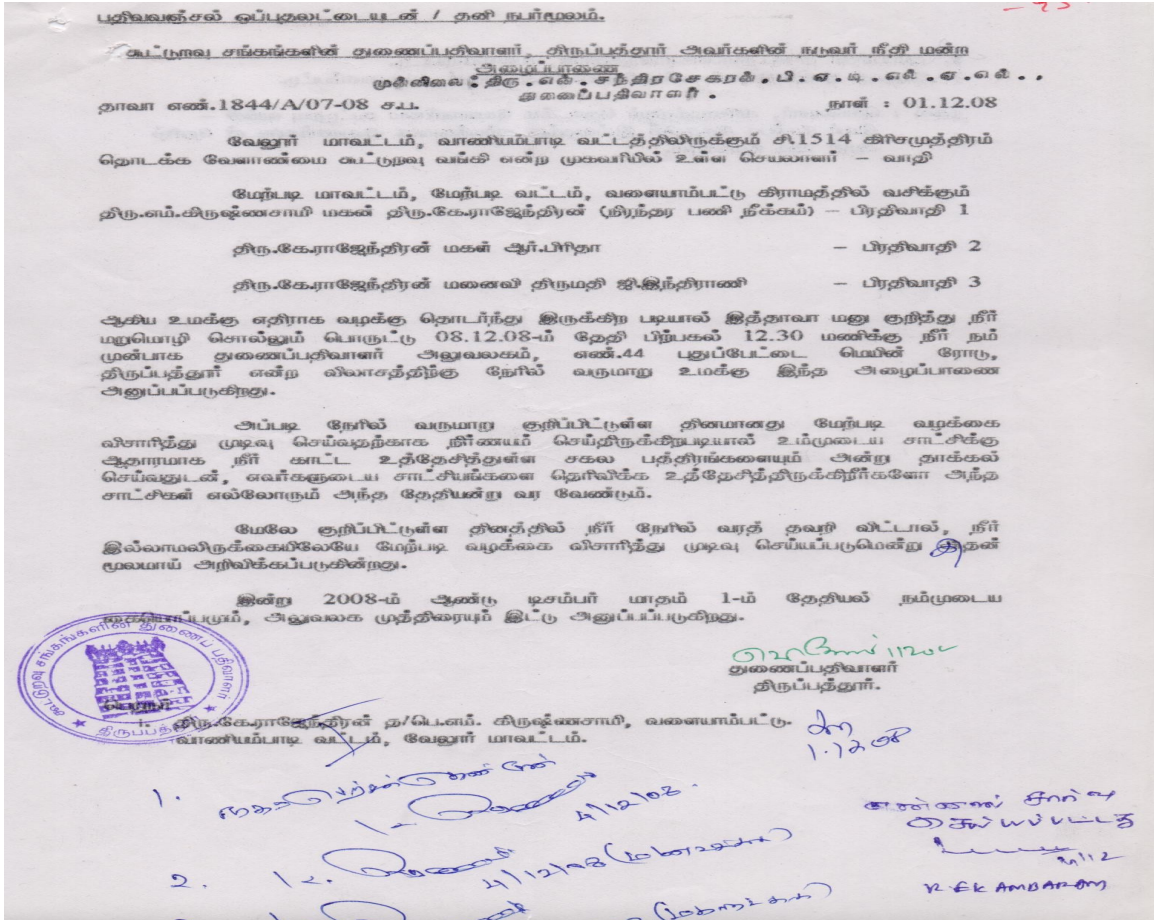
2. ஆர்.பிரதா, த/பெ.திரு.கே.ராஜேந்திரன், வளையாம்பட்டு

3. திருமதி.ஜி.இந்திராணி, த/பெ.திரு.கே.ராஜேந்திரன், வளையாம்பட்டு.

நகல்: செயலாளர், தாவா மது குறித்த நீர் மதுமொழி சொல்லும் பொருட்டு 2.12.08 ி தேதி காலை 11.45 மணிக்கு நீர் நம் முன்பாக ஐக்கைப்பதிவாளர் அவ்வகம், எக்.44 புதுப்பேட்டை மெய்கிரோடு, திருப்பத்தூர் என்ற விவாசத்திற்கு நேரில் வருமாறு உமக்கு இந்த அழைப்பாணை அனுப்பப்படுகிறது.



24. Thereafter, another notice, dated 01.12.2008 seemed to have been sent in Thava No.1844/A/2007-08 Sa.Pa., to the petitioners and the third respondent, directing them to appear before the 1<sup>st</sup> respondent on 08.12.2008 at 12.30 P.M. The said notice is said to have been served by one Mr.R.Ekambaram and acknowledged by the 3<sup>rd</sup> respondent, for himself and on behalf of the petitioners. Photocopy of the said notice, is extracted hereunder:



25. Yet another notice in Thava No.1844/A/2006-07 Sa.Pa., has been sent on 08.12.2008 to the 3<sup>rd</sup> respondent and the petitioners, to appear, in the Office of the 1<sup>st</sup> respondent, on 16.12.2008 at 12.30 P.M. The said notice has also been acknowledged by the 3<sup>rd</sup> respondent for himself and on behalf of the petitioners. Photocopy of the said notice, is extracted hereunder:

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**பதிவச்சல்-உழிபுதவட்டையுட்கு / தனி நபர் மூலம் :**  
**கட்டுறவுச் சங்கங்களின் துணைப்பதிவாளர், திருப்பத்தூர் அவர்களின் நடுவரி நீதிமன்ற அமலுப்பாறை**

(1983ம் வருடத்திய தமிழ்நாடு கட்டுறவுச் சங்கங்களின் சட்டம், 30வது சட்டம் விரிவு 90ல் கீழ்).

முன்னிலை : திரு.என்.சந்திரசேகரன், பி.ஏ., டி.எல்.ஏ.எல்., துணைப்பதிவாளர்.

தாவா எண் 1844-ஏ/2006-07 சப நாள் : 8.12.2008.

வேலூர் மாவட்டம், வண்ணியம்பாடி வட்டத்திலிருக்கும் சி.1514 கிரிசமுத்திரம் தொடக்க வேளாண்மை கட்டுறவு வந்தி சார்பாக மேற்படி வந்தியின் தனி அலுவலர் மற்றும் திரு.வி.இளங்கோ, செயலாளர் - வாதி,

மேற்படி மாவட்டம், மேற்படி வட்டம், வளையாம்பட்டு கிராமத்தில் வசிக்கும் திரு.எம்.அருண்சாமி மகன் திரு.கே.ராஜேந்திரன், செயலாளர் (தற்காலிக பணிநீக்கம்), கிரிசமுத்திரம் தொடக்க வேளாண்மை கட்டுறவு வந்தி - பிரதிவாதி - 1

திரு.கே.ராஜேந்திரன் மகன் ஆர்.பிரதா - பிரதிவாதி - 2

திரு.கே.ராஜேந்திரன், மனைவி திருமதி.ஜி.இந்திராணி - பிரதிவாதி - 3

ஆசிய உமக்கு எதிராக வழக்கு தொடர்ந்து இருக்கிறபடியால், இத்தாவா மறு குறித்து நீர் மறமொழி சொல்லும்பொருட்டு, 2008ம் ஆண்டு செப்டம்பர் 16 - ி தேதி (16.12.2008) பிற்பகல் 12.30 மணிக்கு நீர் நற் முன்பாக துணைப்பதிவாளர் அலுவலகம், எண்.44/55 புதுப்பேட்டை மெயின் ரோடு, திருப்பத்தூர் என்ற விலாசத்திற்கு நேரில் வருமாறு உமக்கு இந்த அழைப்பாண் அனுப்பப்படுகிறது.

அப்படி நேரில் வருவதற்கு குறிப்பிட்டுள்ள தினமானது மேற்படி வழக்கை விசாரித்து முடிவு செய்வதற்காக நீர்மையி் செய்ப்பட்டிருக்கிறபடியால், உம்முடைய சாட்சிக்கு ஆதாரமாக நீர் காட்ட உத்தேசித்துள்ள சகல பத்திரங்களையும் அற்று தாக்கல் செய்வதுடன், எவர்களுடைய சரிட்சியங்களையு தெரிவிக்க உத்தேசித்திருக்கிறீர்களோ, அந்த சாட்சிக்கி எல்லோரும் அந்த தேதியன்று வர வேண்டும். (தாவா நகல் இத்தான் அனுப்பப்படுகிறது).

மேலே குறிப்பிட்டுள்ள தினத்தில் நீர் நேரில் வரத் தவறிவிட்டால், நீர் இல்லாமலிருக்கையிலேயே மேற்படி வழக்கை விசாரித்து முடிவு செய்ப்படும் என்ற இதன் மூலமாய் அறிவிக்கப்படுகிறது.

இன்று செப்டம்பர் 16 -ம் தேதியில் நம்முடைய கையொப்பம், அலுவலர் முத்திரையும் இட்டு அனுப்பப்படுகிறது.

பெறநரி

கட்டுறவுச் சங்கங்களின் துணைப்பதிவாளர், திருப்பத்தூர், வே.மா.

1) திரு.கே.ராஜேந்திரன், த/பெ என்.அருண்சாமி, வளையாம்பட்டு, வண்ணியம்பாடி வட்டம், வேலூர் மாவட்டம்.

2) ஆர்.பிரதா, த/பெ திரு.கே.ராஜேந்திரன், வளையாம்பட்டு.

3) திருமதி.ஜி.இந்திராணி, க/பெ கே.ராஜேந்திரன், வளையாம்பட்டு.

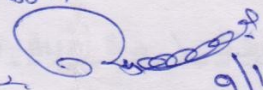
நகல் : தனி அலுவலர், கிரிசமுத்திரம் தொடக்க வேளாண்மை கட்டுறவு வந்தி, வேலூர் மாவட்டம் - இவர் மேற்படி தேதியில் இல்லாவிட்டால் சமீபத்தமாக ஆவணங்களுடன் நேரில் ஆஜராக வேண்டும்.

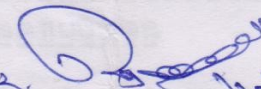



மதுரைக்குள் தனியாகவும் தனி குழுவாகவும்  
நகரத்தில் மொத்தம் 5 பேர்களை நேரடியாக அழைக்கவேண்டும்.

N. P.  
8/12/08.  
தொலைநகரப் பகுதியில்  
இயக்குநர்/பிரதான அலுவலர்

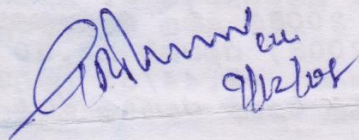
நகர நேரடி அழைக்கவேண்டும்.

1. 1.  9/12/08

2. 1.  9/12/08  
(தொலைநகரம்)

3. 1.  9/12/08.  
(தொலைநகரம்)

தொலைநகர அலுவலர்

  
9/12/08



26. Files at Page No.101, further disclose that on 05.12.2008, the 1<sup>st</sup> petitioner has sent a letter to the Deputy Registrar of Co-op. Societies, Tirupattur Circle, Vellore District, 1<sup>st</sup> respondent herein, stating that she could not appear for the enquiry, due to the marriage of her daughter. On the same day, the 2<sup>nd</sup> petitioner (Minor Preetha) has also sent a letter, giving reason for non-appearance, which is found at Page No.103 in the Files. Further, in both the letters, it has been stated that the petitioners were aware of the summons, through the 3<sup>rd</sup> respondent. In the reference column in both the letters, the proceedings, that has been referred, is "1844/07-08 Sa.Pa., dated 01.12.2008".

27. However, files at Page No.109, show that the 1<sup>st</sup> petitioner has written a letter, dated 11.12.2008, to the 1<sup>st</sup> respondent, stating that when there is no connection between her and the Bank, summons served on her, caused mental agony. She has prayed for dismissal of the arbitration proceedings. In the same manner, the 2<sup>nd</sup> petitioner, Minor Preetha, has also sent a letter, on the same day. In both the letters, both the petitioners have noted the proceedings as, "Thava No.1844-A/2006-07, dated 08.12.2008.

28. Files further disclose that in respect of the arbitration claim, the 3<sup>rd</sup> respondent seemed to have appeared before the 1<sup>st</sup> respondent on 16.12.2008 and given statements. On 17.12.2008, he has perused certain records. The statements and records perused, are as follows:

16/12/2008

1. 1/3/2004 Kjy; 27/5/06 tiu vGjg;gl;Ls;s jPu;khd g[l;jfj:jpy; 26/10/2004 njjp jPu;khd; 3. ghu;f;fg;gl;l/ gf;f vz;/78 bjhif U:/88.125-?/
2. 30/3/02 Kjy; 31/3/2002 tiu vGjg;gl;l jpdg;ngnul;oy; (31/3/05)?y; Blocked loan KfL bra;ag;gl;Ls;sij ghu;f;fg;gl;l/ gf;f vz;/111 bjhif :6/95
3. jpdg;ngnuL 1/4/04 Kjy; 21/6/04 tiu cs;s g[l;jfj:jpy; 21/6/04 njjp ghu;f;fg;gl;l/ gf;f vz;/198. 199 KCC buhf;f tN:y;/
4. jpdg;ngnuL 21/6/04 Kjy; 3/9/04 tiu cs;s ngnuL;oy; gf;f vz;/19.20.23.24.25 ghu;f;fg;gl;l/ buhf;f tN:y; xt;btu egu;fspd; tut[ jdpj;jdpahf vLf;fg;gl;l/ buhf;f tN:y;/
5. 21/6/04 Kjy; 3/9/04 tiu vGjg;gl;l jpdg;ngnul;oy; gf;f vz;/2.3 ghu;f;fg;gl;l/ interest tN:y;(KfL)
6. 1/3/2004 Kjy; 27/5/2006 tiu cs;s jPu;khd g[l;jfj:jpy; ? CUNMT jPu;khd; 1. gf;f vz;/6. 22/3/04 njjp ghu;f;fg;gl;l/ jPu;khd; 2. gf;f vz;/7. 22/3/04 njjp ghu;f;fg;gl;l/

nkW;fz;l gjpntLfis ghu;j;njd;  
vd;W rhu;g[ bra;fpnwd;  
--ifbahg;gk;--16/12/2008

vd; Kd;dpiyapy; ghu;itapl;gl;l/ -  
--ifbahg;gk;--16/12/2008

17/12/2008

1. 130/3/02 Kjy; 31/3/02 tiu cs;s jpdg;ngnul;oy; gf;f  
vz;/111?y; cs;s VCNMT m'; fld; tptuk; vLf;fg;gl;lJ/
2. bghJ ngnul;oy; 2004?2005?y; gf;f vz;/340.160  
ghu;f;fg;gl;lJ/
3. jpdg;ngnuL 23/11/04 Kjy; 31/1/05 tiu cs;sipy;  
g/vz;/193 Kjy; 200k;. bghJ ngnul;oy; gf;f vz;/341k;  
ghu;f;fg;gl;lJ/
4. jpdg;ngnuL 3/2/04 Kjy; 31/3/04 tiu cs;sipy; 29/2/04–  
16/3/04 njppapy; gf;f vz;/120 Kjy; 124 & 185  
ghu;f;fg;gl;lJ/
5. bghJ ngnuL 29/3/05f;F gf;f vz;/334k;. jpdg;ngnuL gf;f  
vz;/197. 198 ghu;f;fg;gl;lJ/
6. jpdg;ngnuL 31/3/05y; gf;f vz;/28k;. bghJngul;oy; gf;f  
vz;/334 ghu;f;fg;gl;lJ/
7. 29/3/05y; jpdg;ngnul;oy; gf;f vz;/196?k;. bghJngul;oy; gf;f vz;/334 ghu;f;fg;gl;lJ/

nkw;fz;l midj;J gjpntLfis ghu;j;njd; vd;W gzpt[lid;  
bjhptpj;Jf;bfhs;fpmwd;/  
--ifbahg;gk;--17/12/2008

nfhhpa Mtz';fis ghu;itapl;nld;  
--ifbahg;gk;--17/12/2008

Jizgjpthsu; mtu;fspd; Mizapd;go gpujpthjp nfhhpa midj;J  
Mtd';fSk; mtUf;F 16/12/08. 17/12/08 Mfpa njppfsy;  
fhz;gpf;fg;gl;lJ/ mtw;iw ghu;itapl;L gpujpthjp Fwpg;g[  
vLj;Jf;bfhz;lhu;  
--ifbahg;gk;--17/12/2008 (brayhsu;)

vd; Kd;dpiyapy; ghu;itaplg;gl;lJ  
--ifbahg;gk;--17/12/2008

29. Page 123 of the Files, is a letter, issued by Mr.V.Elango,

Secretary (Incharge) of the 2<sup>nd</sup> respondent-Bank, to the 1<sup>st</sup> respondent,  
 requesting for postponement of the enquiry in Arbitration Claim  
 No.1844/2007-08 Sa.Pa., which reads as follows:

mk;gY}u; bjhlf;f ntshz;ik Tl;Lwt[ t';fp ypl;/.  
 mk;gY}u; ? 635 801 / (nt/kh/)

njjp 18/12/2008

tpLeu;  
 V.,s';nfh  
 brayhsu; (bghWg;g[]  
 C/1514 fphprKj;jpuk; bjh/nt/T/t';fp  
 fphprKj;jpuk;

bgWeu;

Jizg;gjpthsu; mtu;fs;.  
 Tl;Lwt[ r';f';fspd; Jizg;gjpthsu; mYtyfk;.  
 jpUg;gj;J}u;/

ma;ah.

bghUs;;jhth vz;/1844-2007?08 r/g/  
 miHg;ghiz njjp 29/12/2008y;  
 vd Fwpg;gpl;lij khw;wp kWnjpp tH';f  
 nfhWjy; rk;ge;jkhf/

ehd; bjhlu;e;J VG Mz;Lfshf mk;gY}hpypUe;J (tpujk;  
 ,Ue;J) eilgazkhf jpUg;gjp nfhtpYf;F brd;W tUfpd;nwd;/ ,e;J  
 Mz;Lk; nfhtpYf;F brd;W 30/12/08 md;W ,ut[ Cu; te;J  
 nrUfpd;nwhk;/ mjdhy; 29/12/08 md;W miHg;ghidapd;go tu  
 ,ayhj fhuzj;jhy; jat[Tu;e;J miHg;ghizapd; kWnjpp tH';FkhW  
 kpft[k; gzpt[IDk; jhH;ika[IDk; nfl;Lf;bfhs;fpd;nwd;/

rku;g;gpj;jy;  
 --ifbahg;gk;--  
 brayhsu;(bghWg;g[]

**C.1514 fphprKj;jpuk; bjh/nt/T/t';fp**

30. But in the next page, the Office of the 1<sup>st</sup> respondent has recorded that the 3<sup>rd</sup> respondent has appeared on 29.12.2008 for himself and on behalf of the petitioners, in respect of Arbitration Claim No.1844-A/2007-08 Sa.Pa., and given statement, which is as follows:

**be/**

**2008k; Mz;L ork;gu; khjk; 16k; njjp**

**jhtb be/ 1844A-2007?2008**

**1983k; Mz;oy; jkpH;ehL Tl;Lwt[r; rl;lg;gphpt[ 90  
kw;Wk; 1988k; Mz;oy; jkpH;ehL Tl;Lwt[r; r';f';fspd;  
tpjpfspy; tpjp 107d; fPH; nf/uhn\$e;jpud; Mfpa ehd;  
fPH;fz;l thf;FKyj;jpid cWjpahf rj;jpakhf brhy;fpnwd;:**

**bgau;** / / nf/uhn\$e;jpud;

**jfg;gdhu; bgau;** / / M.fpUc&zrhkp

**taJ** / / 42

**kjk;** / /

**bjhHpy;** / / Kd;dhs; brayhsu;

**,Ug;gplk;** / / 3-184 tisahk;gl;L.

thzpak;gho

**thf;FK:yk;**

ehd; brhy;tbjy;yhk; cz;ik/ cz;ikiaj;jtpu ntbwhd;Wkpy;iy/

**ehd; ,e;jj; jhthtpy; Kjyhk; gpujpthjp. ,uz;lhk; gpujpthjp**

**vdJ kfs; Mu;/gphpjh. K:d;whk; gpujpthjp vdJ kidtp**

**Mu;/,e;jpuhzp vd; rhu;ghft[k;. ,uz;lhk; kw;Wk; K:d;whk;**

**gpujpthjpfs; rhu;ghft[k; ,d;W eilbgw;w tprhuizapy; ,d;W**

**j';fs; Kd;g[ M\$uhfp cs;nsd;/ ,uz;lhk; kw;Wk; K:d;whk;**

gpujpthjpfs; ,izj;Js;s fojj;jpida[k;. ,d;W j';fspk;

tprhuizapd;ngH jhf;fy; bra;Js;nsd;/ 1844-07?08 vz;zpl;l  
jhthtpy; ghu;itaplntz;oa Mtz';fns ,e;jj; jhthtpy;  
bjhlu;g[ilajhf cs;sjhy;. mtw;iw 19-12-08 njjpf;Fs;  
ghu;itapl;L mLj;j tprhuizapy; vdJ thf;FK:yj;iig;  
gjpt[bra;fpnwd;]

goj;J ghu;j;njd;/ rhp/ --ifbahg;gk;-- 16/12/2008

thf;FK:yk; vd;dhy; gjpt[ bra;ag;gl;L thf;FK:yk; mspj;jtuhy;  
 goj;Jg;ghu;j;J rhp vd xg;gp vd; Kd;dpiyapy; ifbahg;gkplg;gl;J/  
 --ifbahg;gk;-- 16/12/2008

**be/**  
**2008k; Mz;L**  
**jhth be/ 1844A-2007?2008**

**1983k; Mz;oy; jkpH;ehL Tl;Lwt[r; rl;lg;gphpt[ 90**  
**kw;Wk; 1988k; Mz;oy; jkpH;ehL Tl;Lwt[r; r';f';fspd;**  
**tpjpfspy; tpjp 107d; fPH; nf/uhn\$e;jpud; Mfpa ehd;**  
**fPH;fz;l thf;FKyj;jpid cWjpahf rj;jpakhf brhy;fpnwd;:**

<b>bgau;</b>	// nf/uhn\$e;jpud;
<b>jfg;gdhu; bgau;</b>	// M.fpUc&;zrhkp
<b>taJ</b>	// 42
<b>kjk;</b>	//
<b>bjhHpy;</b>	// Kd;dhs; brayhsu;
<b>,Ug;gplk;</b>	// 3-184 tisahk;gl;L.
<b>thzpak;gho</b>	

**thf;FK:yk;**

ehd; brhy;tbjy;yhk; cz;ik/ cz;ikiaj;jtpu ntbwhd;Wkpy;iy/

16/12/08 md;W eilbgw;w tprhuizapd;ngH bjhtpf;fg;gl;thW  
 ehd; fphprKj;jpuk; bjhl;f ntshz;ikf; Tl;Lwt[ t';fpapd; mtz';fisg;  
 ghu;itapl;nld;/ **,d;W eilbgw;w tprhuizapd;ngHJ vd;**

rhu;ghft[k;. Vida gpujpthjpfs; rhu;ghft[k; j';fs; Kd;  
M\$uhndd;/ 1844-07?08 vz;zpl;l jhth tprhuid bjhlughf  
thf;FK:yk; totpapyhd tpsf;f';fis ,d;W mspj;Js;nsd;/  
mjidna ,e;j jhth kD bjhlughd thf;FK:ykhft[k;. Vida  
gpujpthjpfs; rhu;ghd thf;FK:ykhft[k; vLj;Jf;bfhs;Sk;go  
ntz;Lfpnwd;/ ,e;jj; jhth bjhlughd midj;J Mtz';fis[ak;  
vd;rhu;ghft[k;. Vida gpujpthjpfs; rhu;ghft[k; ghu;itapl  
nghjpa mtfhrk; mspf;fg;gl;Ls;sJ vdt[k;  
bjhptpj;Jf;bfhs;fpnwd;/

goj;J ghu;j;njd;/ rhp/ --ifbahg;gk;-- 29/12/2008

thf;FK:yk; vd;dhy; gjpag;gl;L thf;FK:yk; mspj;jtuhy;  
 goj;Jg;ghu;j;J rhp vd xg;gp vd; Kd;dpiyapy; ifbahg;gkplg;gl;lj/  
 --ifbahg;gk;-- 29/12/2008

**be/**

**2008k; Mz;L**

jhth be/ 1844A-2007?2008

**1983k; Mz;oy; jkpH;ehL Tl;Lwt[r; rl;lg;gphpt[ 90**  
**kw;Wk; 1988k; Mz;oy; jkpH;ehL Tl;Lwt[r; r';f';fspd;**  
**tpjpfspy; tpjp 107d; fPH; \_/Mu;/knfe;jpud;; Mfpa ehd;**  
**fPH;fz;l thf;FKyj;jpid cWjpahf rj;jpakhf brhy;fpnwd;;**

<b>bgau;</b>	/ / _/Mu;/knfe;jpud;
<b>jfg;gdhu; bgau;</b>	/ / _/uh\$hke;jphp
<b>taJ</b>	/ / 44
<b>kjk;</b>	/ /
<b>bjhHpy;</b>	/ / vGj;;ju; fphprKj;jpuk;
<b>,Ug;gplk;</b>	/ /

**thf;FK:yk;**

ehd; brhy;tbjy;yhk; cz;ik/ cz;ikiaj;jtpu ntbwhd;Wkpy;iy/

ehd; thjp t';fp rhu;ghf m';fPfhuf; fojk; bgw;W ,d;W eilbgw;w  
 tprhuizapy; j';fs; Kd; M\$uhfpndd;/ gpupthjpahdtu;. **mtu;**  
**rhu;ghft[k;. Vida gpupthjpfs; rhu;ghft[k; thjp t';fpapd;**  
**Mtz';fis jpUg;gj;J}u; ruff; Tl;Lwt[r; r';f';fspd;**  
**Jizg;gjpthsu; mYtyfj;jpy; ghu;itapl;ihu; vdi;**  
**bjhptpj;Jf;bfs;fpnwd;/**

goj;j ghu;j;njd;/ rhp/ --ifbahg;gk;-- 29/12/2008

thf;FK:yk; vd;dhy; gjpag;gl;L thf;FK:yk; mspj;jtuhy;  
 goj;jg;ghu;j;j rhp vd xg;gp vd; Kd;dpiyapy; ifbahg;gkplg;gl;lj/  
 --ifbahg;gk;-- 29/12/2008

31. Nearly after four years, an award has been passed in Arbitration Dispute No.1844-A/2007-08, dated 03.01.2013, by Mr.T.K.Prabhakaran, Deputy Registrar of Co-op. Societies, Tirupattur Circle, Vellore District, fixing liability on the petitioners. Files disclose that when an attempt was made by Mr.S.Rajaguru, Office Assistant, Office of the Deputy Registrar, to serve a copy of the abovesaid award, the 3<sup>rd</sup> respondent and the petitioners have refused to receive the award and therefore, the said Office Assistant is stated to have pasted the award in Door No.3/184, in the presence of witnesses.

32. It is the case of the petitioners that though they have received the summons in Arbitration Dispute No.1844/2007-08, they remained ex parte. Perusal of the files shows that notices have been issued for an enquiry, mentioning the claim as Arbitration Dispute



No.1844-A/2007-08, dated 21.11.2008. Though the learned counsel for the petitioners submitted that they are not aware of any proceedings in 1884-A/2007-08, this Court is not inclined to accept the said contention for the reason that, earlier writ petitions have been filed, challenging the proceedings in Arbitration Dispute No.1844-A/2007-08 and after dismissal, review petitions have also been filed.

33. Files disclose that two proceedings numbers have been given, ie., 1844/2007-08 and 1844-A/2007-08. It is not known as to how, two proceedings could be initiated against the same parties, viz., the petitioners and 3<sup>rd</sup> respondent, for the very same amounts, under the same items of the alleged irregularities. However, the contention of the learned counsel for the petitioners that the Deputy Registrar of Co-operative Societies, Tirupattur Circle, has absolved the liability of the petitioners in Arbitration Dispute No.1844/2007-08, on 05.07.2012, holding that the 3<sup>rd</sup> respondent alone was responsible for the alleged loss caused to the society, cannot be disputed.

34. When the petitioners were already absolved of their liability to pay any alleged loss caused by the 3<sup>rd</sup> respondent, in Arbitration Dispute No.1844/2007-08 Sa.Pa., dated 05.07.2012, it is also not known,

as to how, the 1<sup>st</sup> respondent could pass another award in Dispute No.1844-A/2007-08, Sa.Pa., dated 03.01.2013, fixing responsibility and liability on the petitioners also. It is the case of the petitioners that they did not authorise the 3<sup>rd</sup> respondent, to represent them, in the Arbitration Dispute No.1844/2007-08 Sa.Pa. Though the 3<sup>rd</sup> respondent is stated to have appeared before the 1<sup>st</sup> respondent, in Dispute No.1844-A/2007-08, Sa.Pa., dated 03.01.2013, on behalf of the petitioners also, files do not disclose any authorisation letter, given by the 1<sup>st</sup> petitioner. As the 2<sup>nd</sup> petitioner was a minor, at the time of dispute, the 3<sup>rd</sup> respondent could have represented her. But the fact remains that the 1<sup>st</sup> petitioner has not appeared in the enquiry.

35. In Arbitration Dispute No.1844/2007-08 Sa.Pa., dated 05.07.2012, there is a total exoneration of the petitioners from their liability and quite contrary to the same, in Dispute No.1844-A/2007-08, Sa.Pa., dated 03.01.2013, Mr.T.K.Prabhakaran, Deputy Registrar of Co-operative Societies, Tirupattur Circle, Vellore District, has fixed liability on the petitioners also.

36. As stated supra, when the petitioners have filed W.P.Nos.27141, 27142, 27148, 29521 and 29663 of 2007, for the abovesaid relief, vide order, dated 25.10.2007, this Court has dismissed

the writ petitions and subsequently, in the review petitions, this Court has directed the petitioners to prefer an appeal under Section 152 of the Tamil Nadu Co-operative Societies Act, before the Co-operative Tribunal, presided over by a District Judge. When this Court had already passed orders, directing the petitioners to challenge the award, a further review of the orders made in the above batch of the writ petitions, would not be appropriate.

37. Therefore, in the light of the orders made in W.P.Nos.27141, 27142, 27148, 29521 and 29663 of 2007, dated 25.10.2007 and Review Application Nos.20 to 24 of 2008, dated 10.04.2008, the petitioners are permitted to challenge the award, stated to have been passed in, vide Thava No.1844-A/2007-08, dated 03.01.2013, under Section 152 of the Tamil Nadu Co-operative Societies Act, before the Co-operative Tribunal, presided over by a District Judge, within a period of 15 days from the date of receipt of a copy of this order. It is made clear that the observations made by this Court, after a cursory look of the files, does not foreclose the right of the respondents to defend the Award in Arbitration Dispute No.1844-A/2007-08, dated 03.01.2013, on its merits, nor it should be construed as a finding, in favour of the petitioners, in the challenge to the award.

38 In the result, the Writ Petitions are dismissed. No costs.

04.11.2013

skm

S. MANIKUMAR, J.

On 04.11.2013, this Court dismissed the writ petitions, granting liberty to the writ petitioners, to prefer an appeal, under Section 152 of the Tamil Nadu Co-operative Societies Act. On this day, Mr.S.Venkataraman, learned counsel for the petitioners submitted that when the petitioners have been permitted to prefer an appeal, as stated supra, without waiting for the same, steps have been taken to bring the property for public auction. Hence, Registry has been directed to list the matters, at 2.15 P.M.

2. On the basis of the instructions from the Deputy Registrar of Co-operative Societies, Tirupattur Circle, Tripattur, learned Special Government Pleader (Co-operative Societies), submitted that no steps

have been taken, to bring the subject property for public auction, which the learned counsel for the petitioner disputes.

3. Since this Court had already granted liberty to the petitioners to prefer an appeal, to the Competent Authority, under Section 152 of the Tamil Nadu Co-operative Societies Act, 1983, it is appropriate that the respondents should wait atleast, till the expiry of the time granted by this Court to the petitioners, to file necessary appeal, before the Co-operative Tribunal. Hence, the respondents are directed not to enforce the award in Thava No.1844-A/2007-08, dated 03.01.2013, for a period of 15 days from the date of receipt of a copy of this order. It is also open to the petitioner to file an application, for staying the execution of the decree, along with the appeal petition and if any such application is filed, the Tribunal is directed to consider the same and pass orders, on merits.

08.11.2013

skm

To

1. The Deputy Registrar of Co-op. Societies,  
Tirupattur Circle, Vellore District.
2. The Special Officer,  
Girisamudhram Primary Agricultural  
Co-operative Bank,  
Girisamudhram Post, Vaniyambadi Taluk,  
Vellore District.

S. MANIKUMAR, J.

Skm

Writ Petition Nos.25059 and 25772 of 2012

04.11.2013