

BEFORE THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES (LEGAL)
COOPERATIVE DEPARTMENT, GOVERNMENT OF PUDUCHERRY.

N.M.D.No. 9 of 2018

E.DURAIRAJ

(Ex-Manager of the Pondicherry Coop. Housing Society Ltd., No.P.56)
No.17-A, I Cross
Venkata Nagar
Puducherry – 605 011.

>>> Petitioner

Vs.

- (1) The Administrator
Pondicherry Coop. Housing Society Ltd., No.P.56
Ilango Nagar, Puducherry – 605011.
- (2) The Secretary
Pondicherry Coop. Housing Society Ltd., No.P.56
Ilango Nagar, Puducherry – 605011.

>>> Respondents

ORDER

(Issued under Section 84 of the Puducherry Cooperative Societies Act, 1972 read with Rule 67 of the Puducherry Cooperative Societies Rules, 1973)

The above-named Petitioner, retired Manager of the Respondent-Society, filed this dispute, dated **22.10.2018**, before the Registrar of Cooperative Societies (**for short “the RCS”**), Puducherry, **under** Section 84 of the Puducherry Cooperative Societies Act, 1972, (**for short “the Act”**) for the recovery of **Rs.28,78,870/-**, along with interest due thereon, which is payable by the Respondent-Society in respect of five (6) Fixed Deposits (**for short “the FDs”**) issued to the Petitioner.

[2] This dispute was taken up by the RCS and transferred to the undersigned for adjudication, vide proceedings dated **15.11.2018**. The Respondent-Society filed its Counter Statement dated Nil. The Petitioner filed his rejoinder dated **04.02.2019**. The Respondent-Society filed its Additional Counter **09.04.2021**.

[3] On examination of the records and documents available in this dispute, the following indisputable events, in chronological order, were revealed:

- a) The Respondent-Society is a registered primary level cooperative housing society, registered under the Act.

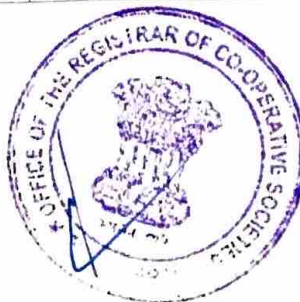


- b) The Petitioner retired from the services of the Respondent-Society on **31.05.2014** on attaining superannuation. At that time, in the absence of an elected committee of management, the Respondent-Society was managed by an Administrator appointed by the RCS. At present, the Respondent-Society is being managed by an elected committee of management.
- c) As an employee, the Petitioner is entitled to claim his terminal benefits, such as, retirement gratuity, employees' provident fund (EPF) & surrender and encashment of earned leave, from the Respondent-Society.
- d) As per the Respondent-Society, the benefits due to the Petitioner at the time of retirement is detailed below:

S. No.	Particulars	Due Rs.	Paid Rs.	Balance Rs.
1	Retirement Gratuity	9,17,098	9,17,098	Nil
2	Employees' Provident Fund	23,01,607	3,25,000	19,76,607
3	Encashment of Earned Leave	3,58,447		3,58,447
Total:		35,77,152	12,42,098	23,35,054

- e) Despite repeated requests made by the Petitioner, the Respondent-Society couldn't settle the amount due to the Petitioner due to financial crisis.
- f) The Petitioner made several representations to the Government higher authorities for intervention to resolve his grievance.
- g) It is reported that, the said Ex-Administrator of the Respondent-Society himself calculated the amount due to the Petitioner as **Rs.28,78,870/-** and as a temporary solution in respect of terminal benefits due to the Petitioner, the said Ex-Administrator issued the following FDs dated **06.07.2016**, amounting to Rs.28,78,870/-, to the Petitioner in lieu of his terminal benefits dues.

S. No.	FDR No.	FD Amount Rs.	Period of Deposit	Date of maturity
1	002449	5,00,000	26 months	06.09.2018
2	002450	5,00,000	26 months	06.09.2018
3	002451	5,00,000	26 months	06.09.2018
4	002452	5,00,000	26 months	06.09.2018
5	002453	4,00,000	26 months	06.09.2018
6	002454	4,78,870	14 months	06.09.2017
Total:		28,78,870		



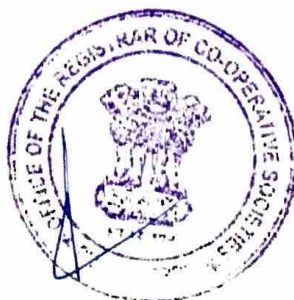
- h) All the above-stated six (6) FDs, dated **06.07.2016**, were issued by the said Ex-Administrator in favour of the Petitioner and his wife, i.e., as "E.Durairaj (EorS) D.Mathyavadhana", which carry interest at the rate of 11% per annum.
- i) The Petitioner-Society neither paid interest for the said FDs nor refunded the said FDs on maturity.

[4] Aggrieved by the non-refund of the said FDs, the Petitioner filed this dispute dated **22.10.2018** for adjudication.

[5] In respect for the **legality of the said FDs**, the Respondent-Society firmly denied the issue of the said FDs in favour of the Petitioner. It is reported that, the said FDs were not transacted in the books of accounts of the Respondent-Society. At the time of issuing FDs to the Petitioner, in lieu of his terminal claims, the said Ex-Administrator should have arranged to pass necessary adjustment journal entries in the books of accounts of the Respondent-Society. Without passing necessary adjustment journal entries, the said Ex-Administrator himself signed the said FDs and issued the same to the Petitioner. Hence, this dispute cannot and shouldn't be adjudicated on the basis of the said FDs, which were issued by the said Ex-Administrator without transacting the same in the books of account of the Respondent-Society. **However, the Petitioner is at liberty to initiate appropriate legal proceedings against the said Ex-Administrator of the Respondent-Society before competent court of law for the issue of the said FDs without transacting in the books of accounts of the Respondent-Society.**

[6] In order to redress the Petitioner's grievance to the possible extent and on humanitarian basis and to render justice, a personal final hearing was held on **05.07.2022**, wherein the Petitioner and the President of the Respondent-Society were participated. During the said hearing, the legality of the said FDs, as aforesaid, was explained to the Petitioner. Submissions made in the said hearings are detailed as follows:

- a) The Petitioner consented for the cancellation of the said FDs.
- b) The Petitioner consented to receive the remaining amount EPF dues from the Respondent-Society as per the Respondent-Society's records. The petitioner insisted for interest from the Respondent-Society for his EPF dues. The Petitioner further



insisted his claim in respect of encashment of earned leave dues from the Respondent-Society.

- c) The President of the Respondent-Society expressed his consent to settle the remaining EPF dues, without interest due thereon, subject to the availability of funds in the Respondent-Society. Even though settlement of EPF dues is a statutory liability of the Respondent-Society, the President of the Respondent-Society didn't state any time-line for such settlement.
- d) In respect of encashment of earned leave, the President of the Respondent-Society firmly refused to settle the same due to the existence of critical financial position of the Respondent-Society.

[7] In view of the abovefacts and in order render justice, **the following orders are made:-**

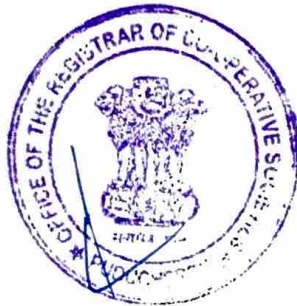
- a) The said FDs, which were issued by the said Ex-Administrator of the Respondent-Society, don't have any legal validity. Hence, as consented by the Petitioner himself, the said FDs stand cancelled. The Petitioner should immediately surrender the said FDs to the Respondent-Society.
- b) On receipt of the said FDs from the Petitioner, the Respondent-Society must immediately pay the remaining EPF dues of **19,76,607/-** to the Petitioner, along with simple interest at the rate of nine per cent per annum (**9% p.a**). Interest shall be calculated only for the actual amount payable to the Petitioner, from time to time, on product basis method, and
- c) When the financial position of the Respondent-Society improves and on humanitarian grounds, the Respondent-Society may consider for the settlement of encashment of earned leave of **Rs.3,58,447/-** to the Petitioner, without any interest thereon.



[8] A copy of this order is forwarded to the Senior Accounts Officer and the Deputy Registrar of Cooperative Societies (Housing). They may arrange to initiate necessary disciplinary actions against the said Ex-Administrator in respect of issue of the said FDs without transacting the same in the books of accounts of the Respondent-Society.

[9] With the above directions, this dispute is disposed of. No costs.

Pronounced in the open court on this 19th day of December, 2022.



(P. RAMACHANDRAIAH)
Deputy Registrar of Coop. Societies (Legal)

To:

- 1) The Petitioner
- 2) The President, Pondicherry Coop. Housing Society Ltd., No.P.56

Copy to:

- 1) The Senior Accounts Officer, Coop. Dept., Puducherry.
- 2) The Deputy Registrar of Coop. Societies (Housing), Coop. Dept., Puducherry.
- 3) The Deputy Registrar of Coop. Societies (Legal), Coop. Dept., Puducherry.
- ✓ 4) The Web Editor, Coop. Dept., Puducherry.

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