



WP(MD)Nos.16259, 16263, 16364, 16365 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.16259, 16263, 16364, 16365 of 2014

and

MP(MD)Nos.1 (4), 2 (4), 3 (4), 4 (4) of 2014,

& 17179, 17450, 17510, 17511 of 2016

I.Selvaraj	... Petitioner in WP(MD)16259/2014
P.Antonyraj	... Petitioner in WP(MD)16263/2014
R.Velraja	... Petitioner in WP(MD)16364/2014
A.Thiruvandi	... Petitioner in WP(MD)16365/2014

v.

1.The Registrar,
Co-operatives,
Chennai.

2.The Deputy Registrar,
Co-operatives,
No.2/96F, Singara Thope,
Ottampalam Near,
Paramakudi,
Ramanathapuram District.



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3.The Secretary,
Q 919, Naripaiyur Primary Agricultural Co-operative Society,
Naripayur,
Muthukalathur Taluk,
Ramanathapuram District.

4.The Inspector of Police,
District Crime Branch,
Ramanathapuram.

5.S.Sakthivel

6.Inbavathi

7.S.Vijay ... Respondents in all WPs

Writ Petitions filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records of the impugned proceedings of the Deputy Registrar / Magistrate, Paramakudi, in ARC 5/2014-15, 7/2014-15, 10/2014-15, 9/2014-15, dated 04.09.2014, 08.07.2014, 08.07.2014, 08.07.2014, respectively and set aside the same.



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For Petitioner : Mr.A.Robinson
Legal Aid Counsel

For Respondents : Mr.S.Saji Bino
Special Government Pleader
for RR.1, 2 & 4

Mr.R.Saravanan for R.3

No appearance for RR.5, 6, 7

COMMON ORDER

The petitioners and others, said to have pledged brass jewels in the third respondent Society, are facing enquiry u/s.90 of the Tamil Nadu Co-operative Societies Act r/w Rule 167 of the Tamil Nadu Co-operative Societies Rules. As against the notice issued by the Deputy Registrar u/s.90 of the Tamil Nadu Co-operative Societies Act, the petitioners have filed these writ petitions.

2.According to the petitioners, they are innocents and they are not a members of the third respondent Society. They have not borrowed any loan from the Society. However, the fifth respondent has created some loan



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applications with forged signatures, as if the petitioners have pledged jewels and availed loan from the Society. Their further grievance is that action is being taken as against them alone, leaving behind the respondents 3 & 5.

3.Learned Counsel appearing for the third respondent Society submitted that the fifth respondent was the Appraiser in the Society and the petitioners are close friends of the fifth respondent. With the help of the fifth respondent, brass jewels were pledged in the Society by the petitioners and huge amount was taken as a loan. He disputed the averments made by the petitioners that they are not the members of the Society and their signatures have been forged in the loan applications, by referring to the typed set of papers and the loan applications.

4.He further submitted that the order impugned is only a notice, which was issued u/s.90 of the Tamil Nadu Co-operative Societies Act r/w Rule 167 of the Tamil Nadu Co-operative Societies Rules. The petitioners are having remedy before the Joint Registrar by filing a review application and also an appeal u/s.152 of the Co-operative Societies Act before the Co-operative



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Tribunal. Instead of resorting to the available remedies, the petitioners have filed these writ petitions.

5.This Court heard the submissions made by the learned Counsel on either side. The petitioners have challenged the notice issued u/s.90 of the Tamil Nadu Co-operative Societies Act. They claim innocence and that they are not aware of the loans granted in their names. The petitioners put the blame on the fifth respondent / Appraiser and the third respondent / Secretary of the Society. In an inquiry conducted u/s.81 of the Tamil Nadu Co-operative Societies Act, the inquiry officer found that most the jewels which were pledged in the names of the petitioners and few others are fake jewels and therefore, for recovering the loan amount, action was initiated.

6.On the complaint of the Society, it appears a criminal case has also been registered in Crime No.18 of 2013 and the same has been charge sheeted and now pending in C.C.No.248 of 2017 before the learned Judicial Magistrate I, Ramanathapuram.



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7. The petitioners, though claim innocents, have not disputed their case during the inquiry conducted u/s.81 of the Act. In fact, the petitioners' Counsel appeared before this Court and also made his submissions on 13.03.2023. This Court has also recorded the arguments of the petitioners' Counsel and the arguments of the respondents' Counsel. After hearing the arguments, this Court has suggested the petitioners to pay the loan amount to the Society. In this regard, the petitioners' Counsel sought time to get instructions and accordingly, the matter was adjourned to 21.03.2023.

8. However, on 21.03.2023, the learned Counsel for the petitioners submitted that he made a communication to the petitioners seeking their instructions for settling the amount. According to him, out of the four petitioners, three petitioners have received the letter, however, they have not given him any instructions. Therefore, the learned Counsel for the petitioners filed a memo reporting 'no instructions'. Along with the memo, he has also enclosed the letter dated 13.03.2023 and the acknowledgment dated 17.03.2023.



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9.The petitioners have participated in the inquiry through a Counsel and have also argued the case. This Court, after ascertaining that the petitioners have not disputed their signatures before the inquiry officer, was not inclined to entertain the writ petitions and also suggested the petitioners to deposit the loan amount to the Society. After that, the petitioners' Counsel reported 'no instructions'. Therefore, this Court in order to conclude the proceedings which is pending from the year 2014 was constrained to appoint a Senior Member of the Bar, Mr.A.Robinson, as a legal aid Counsel to assist the Court on behalf of the petitioners.

10.Learned legal aid Counsel, after going through their papers, confirmed that the petitioners have not disputed the loan applications and their signatures found in the loan applications.

11.Having made the applications in their names, the petitioners are liable to face the proceedings. Therefore, this Court is not inclined to entertain these writ petitions. Accordingly, these writ petitions stand



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dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

12.This Court places on record its appreciation for the fair submissions made by the learned legal aid Counsel. The legal aid authority shall pay a remuneration of Rs.15,000/- to the learned legal aid Counsel.

Index : Yes / No
NCC : Yes / No
Internet : Yes
gk

20.04.2023

To

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- 2.The Deputy Registrar,
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B.PUGALENDHI, J.

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