

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.06.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.13975 of 2015

and

M.P.No.1 of 2015

P.S.Kumar

...Petitioner

Versus

1. The Registrar of Cooperative Societies EVR Periyar Road Kilpauk Chennai 10
- 2 The Joint Registrar of Cooperative Societies Namakkal Region 2nd Floor Collectorate Namakkal and District
- 3 The Deputy Registrar of Cooperative Societies R.M.S. Complex Trichy Main Road Namakkal
- 4 The Coop. Sub Registrar/ Executive Officer S.336 Nachipatti Primary Agricultural Credit Society Limited Nachipatty Namakkal District
- 5 The Coop. Sub Registrar/ Field Officer Vennandur Rasipuram Circle Namakkal District
- 6 The Sub Registrar Mallasamudhram Trichengode Circle Namakkal District

...Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, calling for records on the file of the 3rd respondent relating to the order issued in C.E.P. No.1/2015/SF (2) dt 9.4.2015 and to quash the same and consequently direct the 6th respondent not to make any encumbrance on the attached properties of the petitioner

For Petitioner : Mr.R.Chandrasekaran

For Respondents : Ms.T.P.Savitha (For R1 to R3 & R6)
Government Advocate (Co.op. Soc.)

Mr.EMS. Natarajan (for R4 & R5)
Government Advocate (Co.op. Soc.)

O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner is one of the members of S.336, Nachipatty Primary Agricultural Co-operative Credit Society, Vennandur Post, Rasipuram Taluk, Namakkal District and became a Director. The petitioner was served with a notice dated 09.04.2015 by the 3rd respondent stating among other things that a sum of Rs.6,84,506/- has been misappropriated for which the entire Board of Directors were responsible. Though the petitioner, in pursuance to the said notice issued under Section 167 of the Tamilnadu Co-operative Societies Act, 1983, offered his explanation, furiously on the same day itself, the impugned order dated 09.04.2015 came to be passed, attaching his immovable properties. Hence, challenging the vires of the impugned proceedings, the petitioner has filed this writ petition.

3. Mr.R.Chandrasekaran, learned counsel appearing for the petitioner has drawn the attention of this Court to the common order dated 17.04.2015 made in W.P.Nos.11143 to 11146 of 2015, wherein, on similar facts and circumstances, this Court has quashed the impugned orders passed against similarly placed persons and in the light of the above, prays for similar order.

4. The Court heard the submissions of Mrs.T.P.Savitha, learned Government Advocate, who accepts notice for respondents 1 to 3 and 6 and Mr.EMS.Natarajan, learned Government Advocate, who accepts notice for respondents 4 and 5.

5. This Court in the above said common order dated 17.04.2015 made in W.P.Nos.11143 to 11146 of 2015, has quashed the impugned order passed against other Directors, on the ground that the impugned order came to be passed on the very same date.

6. In the light of the above said order, this writ petition is partly allowed and the impugned order dated 09.04.2015 is set aside and the matter is once again remitted back to the 3rd respondent for fresh adjudication in accordance with Section 167 of the Tamil Nadu Co-operative Societies Act read with Rule 140 of the

Tamil Nadu Co-operative Societies Rules. It is made clear that in the interregnum, the petitioner shall not alienate or encumber or create third party rights in respect of the immovable properties. The 3rd respondent shall make every endeavour to pass fresh orders in terms of the above said provisions within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No Costs. Consequently, the connected Miscellaneous Petitions is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

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1 CC to the Government Pleader, SR.No.25912

W.P.No.13975 of 2015

RSI (CO)

PSI (17.06.2015)