

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2015

Coram

The Hon'ble Mr. Justice T.RAJA

W.P.No.22522 of 2015

R.Purusothaman

.. Petitioner

Vs.

The Registrar of Co-operative
Societies (Sales, Planning
and Growth),
No.170, E.V.R. Periyar High Road,
Kilpauk, Chennai - 10.

.. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondent to pass orders on the Statutory Appeal Memorandum dated 10.04.2015 against the supersession of the society.

For Petitioner ... Ms.N.R.Jasmine Padma

For Respondents ... Mr.R.Balaramesh,
Addl. Govt. Pleader

ORDER

This writ petition has been filed, seeking a direction to the respondent - Registrar of Co-operative Societies (Sales, Planning and Growth), Chennai to dispose of the statutory appeal filed on 10.04.2015 on merits and in accordance with law expeditiously.

2.The learned Additional Government Pleader appearing for the respondent submitted that in the impugned order, against which the petitioner has filed an appeal before the Registrar, it has been wrongly mentioned that appeal will lie before the Registrar. A reading of Section 152(2) of the Tamil Nadu Co-operative Societies Act, 1983 shows that as the order appealed against was passed by the Joint Registrar on behalf of the Registrar, the petitioner ought to have filed an appeal before the Tribunal. Since the penultimate paragraph of the order passed by the Joint Registrar states that the petitioner can prefer an appeal before the Registrar under Section 152 of the Act, the petitioner has also wrongly approached the Registrar instead of approaching the Tribunal. He has also brought to

the notice of this Court Section 152 (2) of the Tamil Nadu Co-operative Societies Act, 1983, which reads as follows:

152 (2) (a) Any person aggrieved by any -

(i) decision under Section 7, sub-section (4) of section 23, sub-section (6) of section 34; or

(ii) refusal to register the society under sub-section 9 or the amendment of the by-laws under section 11; or

(iii) registration of amendment of the by-laws under sub-section (2) of section 12; or

(iv) approval of or refusal to approve the expulsion of a member under sub-section (2) of section 25, the proposal to take loan under clause (e) of sub-section (I) of section 105, the decision of the board under clause (ii) of sub-section (I) of section 106, the regulations under section 108 or the removal of a member under the proviso to section 109; or

(v) order under section 14, clause (ii) of sub-section (2) of section 21, section 36, sub-section (1) of section 88, sub-section (1) of section 89, section 137 or section 181, may appeal if such decision, refusal, registration, approval or refusal to approve or order is that of -

(A) the Registrar for the State, to the Government; or

(B) any other person, to the Registrar.

Explanation:- For the purposes of this clause; "person aggrieved" means in relation to section 11 or section 12, the registered society.

(b) Any person, who is refused admission to a registered society under sub-section (2) of section 21 or who is aggrieved by any order of the liquidator under section 139, may appeal to the Registrar.

3.A mere reading of the above provision clearly shows that the Joint Registrar ought not to have mentioned that appeal lies before the Registrar as it has to be filed only before the Tribunal. Therefore, the petitioner is directed to file an appeal against the order dated 18.02.2015, passed by the Joint Registrar before the Tribunal, within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed before the Tribunal, it is for the Tribunal to pass orders on merits and in accordance with law. The writ petition is disposed of accordingly. No costs. It

is made clear that the direction to file appeal before the Registrar alone is quashed.

Sd/-
Asst.Registrar (CS III)

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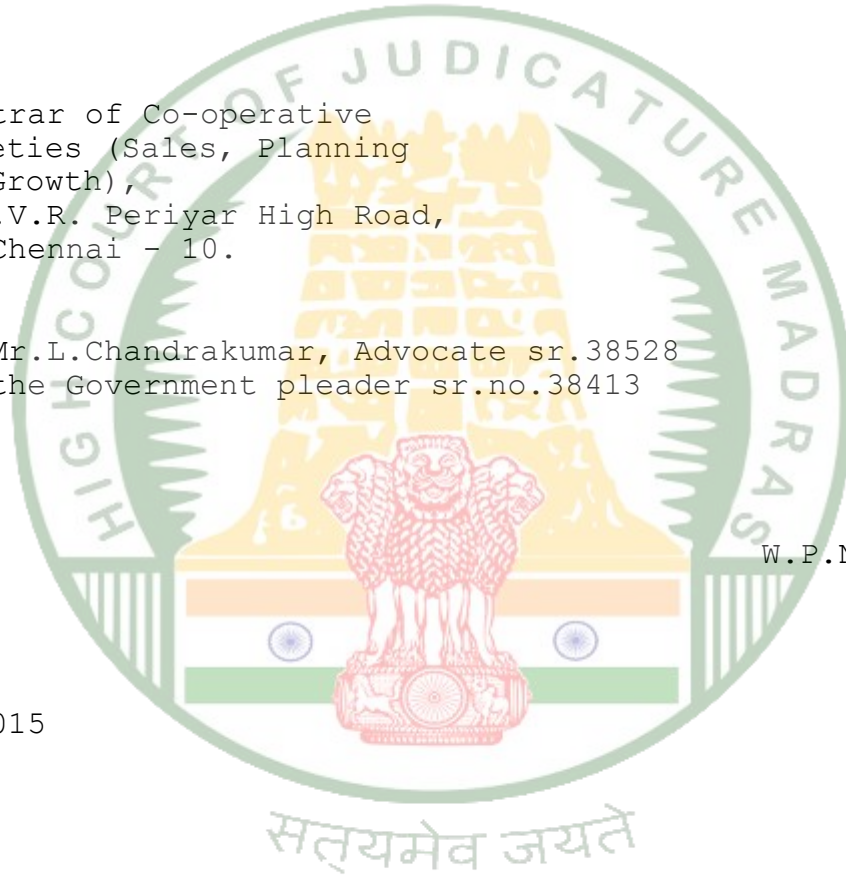
Sub Asst. Registrar

mmi
To
The Registrar of Co-operative
Societies (Sales, Planning
and Growth),
No.170, E.V.R. Periyar High Road,
Kilpauk, Chennai - 10.

+1 cc to Mr.L.Chandrakumar, Advocate sr.38528
+1 cc to the Government pleader sr.no.38413

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