

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos. 35582 and 35583 of 2015
and

M.P.Nos.1 and 2 in W.P.No.35582 of 2015

M.P.Nos.1 to 3 in W.P.No.35583 of 2015

K.Senthilvel
S/o.M.S.Kathirvelu
Gundenpudur
Modakuruchi- 638 104
Erode District.

... Petitioner in both
the W.Ps.

Vs

1. The Appellate Authority/Joint Registrar of Co-operative Societies Erode Region Erode-638 003. ... 1st respondent in W.P.No.35582 of 2015
2. The Deputy Registrar of Co-operative Societies Erode Circle No.34 Muthumariamman Koil Street Thirunagar Colony Karungalpalayam Erode-638 003. ... 2nd respondent in both the W.Ps
3. No.AA 226 Modakuruchi Primary Agricultural Co-operative Credit Society Ltd Rep. by its President Modakuruchi-638 104 Erode District. ... 3rd respondent in both the W.Ps.
4. The Revision Authority/Joint Registrar of Co-operative Societies Erode Region Erode-638 003. ... 1st respondent in W.P.No.35583 of 2015

5 K.S.Shanmugam President
No.AA 226 Modakuruchi Primary Agricultural
Co-operative Credit Society Ltd
Modakuruchi- 638 104 Erode District.

... 4th respondent in
W.P.No.35583 of 2015

Prayer in W.P.No.35582 of 2015: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the entire records relating to the impugned orders passed by the 1st respondent in his proceedings in Na.Ka.1070/2015/ Sa.pa. dated 27.8.2015 along with the impugned orders passed by the 2nd respondent in the proceedings in Na.Ka.5734/2013/Sa.Pa dated 13.10.2014 and quash the same.

Prayer in W.P.No.35583 of 2015: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the entire records relating to the impugned orders passed by the 1st respondent in his proceedings in Na.Ka.1070/2015/ Sa.pa. dated 27.8.2015 along with the impugned proceedings passed by the 3rd respondent in the Resolution No.5 dated 15.11.2014 and the consequential communication dated 17.11.2015 and quash the same.

For Petitioner : Mr.R.Krishnamoorthy
For Respondents : Mr.D.Venkatachalam,G.A.
for R1 and R2 in both the W.Ps.
Mr.R.Balaramesh,A.G.P.
for R3 in both the W.Ps.
and for R4 in W.P.No.35583/15

COMMON ORDER

Heard Mr.R.Krishnamoorthy, learned counsel for the petitioner and Mr.D.Venkatachalam, learned Government Advocate, who takes notice for R1 and R2 and Mr.R.Bala Ramesh, learned Additional Government Pleader, who accepts notice for R3 and R4 and with the consent of parties, the writ petitions are taken up for final disposal.

2. The petitioner is a member of the third respondent Society and was elected as a Director of the Board Management, in the election conducted during 2013, as per the provisions of the Tamil Nadu Cooperative Societies Act, 1983 (hereinafter referred as the 'Act' in short). In W.P.No.35582 of 2015, the petitioner challenges the order passed by the first respondent rejecting his appeal and also challenges the order removing him permanently from the post of Director.

3. The challenge in W.P.No.35583 of 2015 is to an order similar to that impugned in W.P.No.35582 of 2015, except the fact that the challenge is to the acceptance of the resignation of the petitioner and removal from the membership of the Board, with the allegation that the said acceptance was ante-dated and not in accordance with law.

4. Earlier, the petitioner approached this Court by filing W.P.No.30220 of 2014, which was heard along with W.P.No.32774 of 2014 and the writ petitions were disposed of by a common order dated 23.1.2015, directing the petitioner to prefer an appeal under Section 152 of the Act. This direction was complied with by the petitioner and he preferred an appeal on 2.2.2015 and he has also filed an interlocutory application for grant of interim stay of the proceedings of the first respondent dated 13.10.2015. The petitioner has paid the requisite Court fee and affixed the Court fee stamp on the appeal petition. This has also been mentioned in the appeal petition, in the memo of valuation column at page No.8 of the appeal petition. Thus, the petitioner has complied with the order passed by this Court and preferred the appeal petition. Curiously enough, the first respondent/Joint Registrar one S.Ramadosh, has dismissed the appeal petition on the ground that the petitioner has not paid the requisite Court fee and produced the challan.

5. The learned Additional Government Pleader submits that in case the Court fee affixed is not adequate or insufficient, the first respondent may be granted liberty to call upon the petitioner to remit the appropriate Court fee.

6. It is surprising to note that the Joint Registrar, the first respondent herein/Mr.Ramadosh is a Law Graduate. Assuming that a person has paid improper or deficit Court fee, that cannot be a ground to dismiss the appeal, as it has to be returned for re-representation. In spite of the said Mr.Ramadosh being a law graduate, it is rather surprising that he is not even aware of this basic principle and especially when he has got adjudicatory powers to decide the correctness of the order passed by the second respondent. This Court records its dissatisfaction with regard to the manner in which the said Joint Registrar/Mr.Ramadosh has passed the impugned order.

7. In the result, the writ petitions are allowed and the impugned orders are quashed. The first respondent shall take the appeal on file; take note that the petitioner had remitted the Court fee by way of Court fee stamps, as mentioned in the memo of valuation in the appeal petition; verify whether the Court fee remitted is proper and adequate and if there is any deficient Court fee, the petitioner may be directed to remit

the same; issue notice to the respondents in the appeal; hear the parties and dispose of the appeal on merits and in accordance with law as expeditiously as possible. No costs. Connected miscellaneous petitions are closed.

sd/
ASSISTANT REGISTRAR (CS-IV)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

msk

To

1. The Appellate Authority/Joint Registrar of Co-operative Societies Erode Region Erode-638 003.
- 2 The Deputy Registrar of Co-operative Societies Erode Circle No.34 Muthumariamman Koil Street Thirunagar Colony Karungalpalayam Erode-638 003.

+2 CC to MR.R.Krishnamoorthy Advocate. SR.NO. 60513 &60514
+1 CC to MR.R.Balaramesh Advocate. SR.NO. 60804
+2 CC to Govt.Pleader. SR.NO. 61271 & 61183

+ 1 CC TO MR.R.BALA RAMESH, ADVOCATE SR 60802 (5/1/16)

W.P.Nos. 35582 and 35583 of 2015

AR-IV
JD 23/11/2015

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