

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.03.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.12110 of 2016

and

W.M.P.No.10480 of 2016

T.Murugavel

...Petitioner

Vs.

1.The Assistant Director of
Handlooms and Textiles,
Tiruchengode,
Namakkal District.

2.The Managing Director,
M.P.Nachimuthu Power Loom
Weavers Corporation Society,
Vennandur, Namakkal District.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the entire records relating to the impugned order passed by the first respondent in his proceedings CEP No.4/2016, dated 26.02.2016 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader

O R D E R

Heard Mr.C.Prakasam, learned counsel appearing for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader, accepting notice on behalf of respondents. With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2. The petitioner has filed this Writ Petition praying for issuance of writ of certiorari to quash the order passed by the first respondent, dated 26.02.2016.

3. The impugned order is an order of conditional attachment passed by the first respondent under Section 167 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the Act').

4. The case of the petitioner is that, though he was elected as one of the Board of Directors of the second respondent/Society, he never assumed the charge as Director, and he never participated in any one of the Meetings, nor signed any resolution passed by the second respondent/Society. Further, the petitioner would state that he never have visited the second respondent/Society. Explanation for this conduct is that, the President, Vice President and two other Board of Directors of the second respondent/Society are all belong to the same Family, and the atmosphere was not conducive to him and the petitioner was not satisfied with the manner in which they conducted the Office and the affairs of the Society. Therefore, the petitioner seeks to quash the impugned proceedings.

5. The issue involved in this Writ Petition is covered by an earlier decision of this Court in W.P.No.106 of 2016 in [R.Eswaran v. The Deputy Registrar of Cooperative Societies, Dharapuram]. In the said Writ Petition, an identical proceeding was sought to be quashed on the ground that enquiry has been commenced under Section 81 of the Act, and during the pendency of the enquiry proceedings, the authorities have invoked powers under Section 167 (2) of the Act and passed the impugned order of attachment. This Court, following the decision rendered in the case of (E.Murugan and others Vs. The Registrar of Cooperative Societies and others), in W.P.Nos.11143 to 11146 of 2015, dated 17.04.2015, partly allowed W.P.No.106 of 2016 with certain directions. The operative portion of the said order reads as follows:-

"5. Accordingly, the Writ Petition is partly allowed, the impugned order dated 31.08.2015 passed under Section 167(2) of the Act is set aside and the matter is remitted back to the first respondent for fresh adjudication in accordance with Section 167 of the Act read with Rule 140 of the said Rules. In the interregnum, the petitioner shall not alienate or encumber or create third party rights in respect of the immovable properties in question. The first respondent shall pass orders in terms of the provisions of law within a period of eight weeks from the date of receipt of a copy of this order."

6. Thus, in the light of the earlier order passed by this Court in W.P.No.106 of 2016, following which, W.P.Nos.5596 and

5597 of 2016 and W.P.Nos.9559 and 9560 of 2016, were disposed of by orders dated 16.02.2016 and 23.03.2016 respectively, the present Writ Petition can also be disposed of, on the same lines, as the present impugned proceedings is too a conditional attachment order passed under Section 167 of the Tamil Nadu Co-operative Societies Act, 1983. Further, it is submitted that the petitioner has not at all assumed charge though he was declared as elected Board of Director.

7. Accordingly, the Writ Petition is partly allowed and the impugned order, dated 26.02.2016 is set-aside and the matter is remitted back to the first respondent for fresh adjudication in accordance with Section 167 of the Act read with Rule 140 of the Tamil Nadu Co-operative Societies Rules, 1988, after issuing notice and after hearing the petitioner and any other person who would be interested in the proceedings. The first respondent shall also consider the submissions made by the petitioner that he has not assumed Office as Board of Director of the Society, though he has been elected. In the interregnum, the petitioner, or the person, in whose name the property stands registered shall not alienate or encumber or create third party rights in respect of those immovable properties in question. The above direction shall be complied with by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.

8. In the result, the Writ Petition is partly allowed, as stated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1.The Assistant Director of
Handlooms and Textiles,
Tiruchengode,
Namakkal District.

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2.The Managing Director,
M.P.Nachimuthu Power Loom
Weavers Corporation Society,
Vennandur, Namakkal District.

1 cc to Mr.L.P. Shanmugasundaram, Advocate, Sr. 20382

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