

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.14935 of 2016

and

W.M.P.No.13054 of 2016

S.Krishnan Petitioner

vs.

1. The Joint Registrar of Co-operative Societies,
Villupuram Region,
Villupuram District.
2. CL Spl 156 Nolambur Primary Agricultural
Co-operative Credit Society,
rep. by its president,
Nolambur Post, Tindivanam Taluk,
Villupuram District. Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus, to call for the records of the first respondent in Na.Ka.6971/2010 sa.pa dated 01.03.2016 and quash the same and direct the first respondent to allow the petitioner to withdraw the revision petition under Section 153 of the Tamilnadu Co-operative Societies Act.

For Petitioner : M.S.Palaniswamy

For Respondents : Mr.T.Girija,
Government Advocate,
for R1

: Mr.L.P.Shanmugha Sundaram,
Special Government Pleader,
for R2

ORDER

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

2. The petitioner has come up with the present writ petition for a certiorarified mandamus to call for the records of the first respondent in Na.Ka.6971/2010 Sa.pa dated 01.03.2016 and quash the same and also direct the first respondent to allow the petitioner to withdraw the revision petition under Section 153 of the Tamilnadu Co-operative Societies Act.

3. It is the case of the petitioner that when the petitioner was working as a clerk in the respondent society, charge was framed against him for being the secretary of the 2nd respondent society, in/for the act of misappropriation. Domestic enquiry and criminal proceedings were initiated against the petitioner. Domestic enquiry was proceeded with and the petitioner was dismissed from service on 30.09.2002. Aggrieved over the same, the petitioner has filed revision petition under Section 153 of the Tamilnadu Co-operative Societies Act before the first respondent. But, the same was returned by the first respondent stating that the revision petition was filed beyond the period of limitation. Against which, the petitioner preferred a Writ Petition in W.P.No.24623 of 2010 before this court and by an order dated 01.11.2010, this Court directed the first respondent to entertain the revision petition and to pass the order on merits.

4. In the meanwhile, the Elected Board by considering the order of acquittal by the criminal court, reinstated the petitioner in service and he was also directed to withdraw the revision petition, which is pending before the first respondent. When, the petitioner approached the first respondent for withdrawing the revision petition, the first respondent by his order in Na.Ka.6971/2010 Sa.pa dated 01.03.2016 refused to allow him to withdraw the same holding that the order of dismissal cannot be set aside and he cannot be reinstated in office. Hence, the petitioner has come forward with the present petition.

5. When the matter was taken up for consideration the learned counsel for the petitioner submitted that the only grievance of the petitioner is that the impugned order has been passed by the first respondent without serving any notice to the petitioner.

6. The learned counsel for the respondent also submitted that the order was passed without serving notice to the petitioner.

7. Considering the facts and circumstances of the case and considering the submissions made on either side, as the order has been passed without serving notice to the petitioner, I find that the matter could be remitted back to the first respondent for fresh consideration.

8. Accordingly, the impugned order in Na.Ka.6971/2010 dated 01.03.2016 is set aside and the matter is remitted back to the first respondent for fresh consideration. The first respondent is directed to serve notice to the petitioner and pass appropriate order, after giving an opportunity of personal hearing to the petitioner, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. It is represented by the learned counsel for the petitioner that as on date he is continuing service from 20.05.2015. Hence, status quo as on date to be maintained till the disposal of the revision petition.

9. With the above direction, this petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Joint Registrar of Co-operative Societies,
Villupuram Region,
Villupuram District.

2. CL Spl 156 Nolambur Primary Agricultural
Co-operative Credit Society,
rep. by its president,
Nolambur Post, Tindivanam Taluk,
Villupuram District.

+1cc to Mr.M.S.Palanisamy, Advocate sr.55560

W.P.No.14935 of 2016

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srg 02/11/2016