

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.19416 of 2016
and
W.M.P No.16832 of 2016

P.Loganathan

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Petitioner

Vs.

1.The Joint Registrar of Co-operative
Societies, Collectorate,
Namakkal.

2.The Management of S.1223,
Chandrasekarapuram Primary
Agricultural Co-operative Credit Society Ltd.,
Rep. by its Secretary, Chandrasekarapuram Post,
Rasipuram Taluk,
Namakkal District

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Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India for issue of writ of certiorari calling for the records relating to the order dated 23.05.2016 made in Na.Ka.No.2450/16/sapa on the file of the first respondent herein and quash the same.

For Petitioner : Mr.C.Munusamy

For Respondents: Mr.L.P.Shanmughasundaram
Special Govt. Pleader (Co.op)

O R D E R

The petitioner is the President of the second respondent Co-operative Society. He has been issued with the impugned order under Section 88 (1) of the Tamil Nadu Co-operative Societies Act, 1983 calling upon him to show cause as to why action should not be taken. The said order is being challenged before this Court.

2. Heard Mr.C.Munusamy, learned counsel appearing for the petitioner who argued at length, relying upon Section 88 of the Tamil Nadu Co-operative Societies Act contending that the case stated in the impugned order does not come under the purview of Section 88 of the Act. He also pointed out by reading the impugned

order that no specific allegations have been made against the petitioner and in fact, all the procedures have been completed by forming committees for construction of the building. By reading the completion certificate issued regarding the construction of the building, he would submit that everything has been done according to law and in fact the property was occupied and only with a political vendetta, the present impugned order has been passed.

3. Mr.L.P.Shanmughasundaram, learned Special Government Pleader appearing for the respondents opposed the contention made by the learned counsel for the petitioner.

4. A perusal of the impugned order would reveal that it is only a show cause notice. It is trite law that no writ will lie upon the show cause notice since the party has got every right to reply the show cause notice and take part in the proceedings. Unless there is no jurisdiction, there is violation of principles of natural justice and in violation of the statute, the notice is issued, this Court can entertain the writ petition. Further, there are allegations which have been categorically stated in the impugned order, which according to the first respondent makes out a case to take action under Section 88 of the Act. If this court goes further into the case, then it would give a finding on merits and therefore, to avoid that, this court only gives liberty to the petitioner to give reply to the respondent and to take part in the proceedings. It is suffice to say that the impugned order requires a reply. Since the reply is required to be given by the petitioner, without doing that, he cannot rush to the court. Thus, the writ petition is liable to be dismissed.

5. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

6. After dismissal of the writ petition, Mr.C.Munusamy, learned counsel for the petitioner seeks two weeks time to enable the petitioner to give his reply, as the time granted by the respondent had already expired. In view of the above, two weeks time from today (09.06.2016) is granted to the petitioner to give his reply to the first respondent.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

rgr

To

1.The Joint Registrar of Co-operative
Societies, Collectorate,
Namakkal.

2.The Management of S.1223,
Chandrasekarapuram Primary
Agricultural Co-operative Credit Society Ltd.,
Rep. by its Secretary, Chandrasekarapuram Post,
Rasipuram Taluk,
Namakkal District.

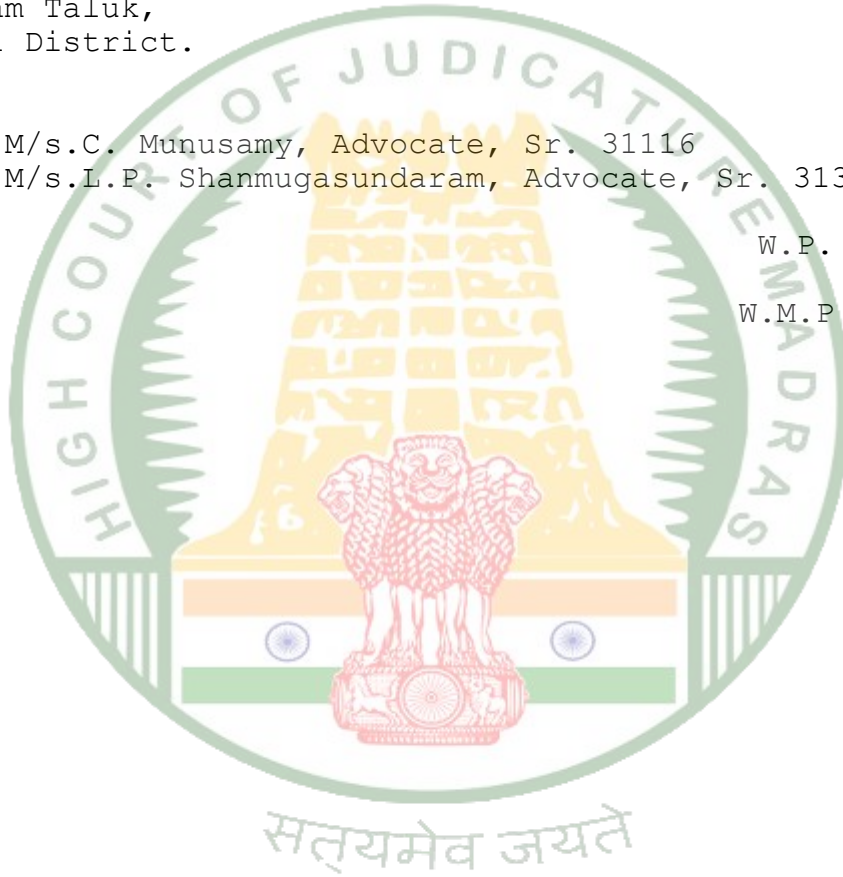
1 cc to M/s.C. Munusamy, Advocate, Sr. 31116

1 cc to M/s.L.P. Shanmugasundaram, Advocate, Sr. 31317

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