

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.36973, 4248 of 2015 and 9664 of 2016
and

M.P.Nos.1 and 1 of 2015 and
W.M.P.Nos.8671 and 8823 of 2016

WP.No.36973 of 2015

K-327 Chinnaveerampatti Primary
Agricultural Co-operative Credit Society,
Represented by its Secretary,
Chinnaveerampatti Village,
Udumalpet Taluk, Tirupur District. .. Petitioner

Versus

- 1.The Registrar of Co-operative Societies,
Poonamallee High Road,
Chennai-600 010.
- 2.The Deputy Registrar of Co-operative Societies,
Dharapuram,
Tiruppur District.
- 3.The General Manager,
Coimbatore Central Co-operative Bank Limited,
No.80, Bank Road, Coimbatore.
- 4.The President,
K-797, Kongal Nagaram Primary
Agricultural Co-operative credit Society,
Kongal Nagar,
Udumalpet Taluk, Tirupur 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 records relating to the proceedings of the second respondent dated 24.10.2015 made in Na.Ka.No.3081/2015/Koo. Sa. and to quash the same.

For Petitioner : Mr.S.Silambannan, Senior Counsel
for Mr.C.Prabakaran

For Respondents : Mr.P.H.Arvind Pandian,
(for R1 and R2) Additional Advocate General
Assisted by Mr.L.P.Shanmugasundaram,
Special Government Pleader

WP.No.4248 of 2015

- 1.K-384 Adivelli Primary Agricultural
Co-operative Credit Society,
Represented by its Secretary,
Adivelli Village, Udumalpet Taluk,
Tirupur District.
- 2.K-374 Vaa. Vellore Primary Agricultural
Co-operative Credit Society,
Represented by its Secretary,
Vaa Vellore Village, Vaagathozhuvu Post,
Udumalpet Taluk, Tirupur District.
- 3.K-822 Ramachandrapuram Primary
Agricultural Co-operative Credit Society,
Represented by its Secretary,
Ramachandrapuram Village & Post,
Udumalpet Taluk, Tirupur District.
- 4.K-491 Velayudha Goundanpudur Primary
Agricultural Co-operative Credit Society,
Represented by its Secretary,
Goundanpudur Village & Post,
Udumalpet Taluk, Tirupur District.
- 5.K-1105 Kuralkuttai Primary
Agricultural Co-operative Credit Society,
Represented by its Secretary,
Kuralkuttai Village,
Udumalpet Taluk, Tirupur District.
- 6.K-327 Chinnaveerampatti Primary
Agricultural Co-operative Credit Society,
Represented by its Secretary,
Chinnaveeranpatti Village,
Udumalpet Taluk, Tirupur District.
- 7.DRLC9 Kudimangalam Land Development Bank &
Primary Agricultural Co-operative Credit Society,
Represented by its Secretary,
Kudimangalam Village & Post,
Udumalpet Taluk, Tirupur District. .. Petitioners

Versus

- 1.The Registrar of Co-operative Societies,
Poonamallee High Road,
Chennai-600 010.
- 2.The Deputy Registrar of Co-operative Societies,
Dharapuram,
Tiruppur District.

3.The General Manager,
Coimbatore Central Co-operative Bank Limited,
No.80, Bank Road, Coimbatore.

4.K-797, Kongal Nagaram Primary
Agricultural Co-operative credit Society,
Kongal Nagar,
Udumalpet Taluk, Tirupur District. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the second respondent dated 08.01.2015 made in interlocutory application No.1/2014-15 in Suit No.196/2014-15, to quash the same and consequently direct the third respondent to release the attached amount and credit the same into the petitioners respective account.

For Petitioners : Mr.S.Silambannan, Senior Counsel
for Mr.C.Prabakaran

For Respondents : Mr.P.H.Arvind Pandian,
(for R1 and R2) Additional Advocate General
Assisted by Mr.L.P.Shanmugasundaram,
Special Government Pleader

WP.No.9664 of 2016

1.K-384 Adivelli Primary Agricultural
Co-operative Credit Society,
Represented by its Secretary,
Adivelli Village, Udumalpet Taluk,
Tirupur District.

2.K-374 Vaa. Vellore Primary Agricultural
Co-operative Credit Society,
Represented by its Secretary,
Vaa Vellore Village, Vaagathozhuvu Post,
Udumalpet Taluk, Tirupur District.

3.K-822 Ramachandrapuram Primary
Agricultural Co-operative Credit Society,
Represented by its Secretary,
Ramachandrapuram Village & Post,
Udumalpet Taluk, Tirupur District.

4.K-1105 Kuralkuttai Primary
Agricultural Co-operative Credit Society,
Represented by its Secretary,
Kuralkuttai Village,
Udumalpet Taluk, Tirupur District.

5.K-327 Chinnaveerampatti Primary
Agricultural Co-operative Credit Society,
Represented by its Secretary,
Chinnaveeranpatti Village,
Udumalpet Taluk, Tirupur District. .. Petitioners

Versus

- 1.The Registrar of Co-operative Societies,
Poonamallee High Road,
Chennai-600 010.
- 2.The Deputy Registrar of Co-operative Societies,
Dharapuram,
Tiruppur District.
- 3.The General Manager,
Coimbatore Central Co-operative Bank Limited,
No.80, Bank Road, Coimbatore.
- 4.K-797, Kongal Nagaram Primary
Agricultural Co-operative credit Society,
Kongal Nagar,
Udumalpet Taluk, Tirupur District.
- 5.The Director,
Department of Co-operative Audit,
Post Box No.420,
Tamil Nadu Slum Clearance Board Office Campus,
No.5, Kamarajar Salai,
Chennai - 600 005.
- 6.The Assistant Director,
Department of Co-operative Audit,
No.137, Vinayagar Koil 7th Street,
I.O.B. Backside,
Moolapalayam,
Erode. .. 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 records relating to the impugned proceedings of the sixth respondent dated 31.12.2015 made in Na.Ka.No.7626/2014/Tha.1 to quash the same.

For Petitioners : Mr.S.Silambannan, Senior Counsel
for Mr.C.Prabakaran

For Respondents : Mr.P.H.Arvind Pandian,
(for R1 and R2) Additional Advocate General
Assisted by Mr.L.P.Shanmugasundaram,
Special Government Pleader

COMMON ORDER

Heard Mr.S.Silambannan, learned senior counsel assisted by Mr.C.Prabakaran , learned counsel for the petitioners in all writ petitions and Mr.P.H.Arvind Pandian, learned Additional Advocate General, assisted by Mr.L.P.Shanmugasundaram, learned Special Government Pleader, accepting notice on behalf of respondents 1 and 2 in all writ petitions and notice to the fourth respondent society in all writ petitions having been served and the name appeared in the cause list, none appears for them.

2. The present proceedings has revealed a scam committed by the Co-operative societies in the manner in which jewel loans were availed. It is not very clear at this stage of the matter as regards the modus operandi adopted, but the statement of the learned Additional Advocate General is that the jewels pledged with the fourth respondent society were taken from the society without the knowledge of those persons, who have pledged the jewels, probably replaced with fake jewels and those jewels have been deposited with the seven societies who are the petitioners in these writ petitions in the names of fictitious persons or relatives or the directors of the fourth respondent society and loans were obtained. The estimated financial loss assessed as on date exceeds Rs.24 crores. The matter is under investigation by the second respondent, who is the Deputy Registrar of Co-operative Societies, Dharapuram and the present writ petitions have been filed, impugning the order passed by the second respondent dated 08.01.2015, in and by which various amounts which are due to the petitioners societies from the Central Co-operative bank have been retained in a suspense account pending investigation into the allegations said to have been committed by the fourth respondent Co-operative society.

3. Learned Senior counsel for the petitioners urged only two contentions. Firstly, by referring to the counter affidavit filed by the third respondent stating that the Additional Registrar (Marketing, Planning and Development) office of the Registrar of Co-operative Societies in his proceedings dated 12.02.2015, ordered the enquiry under Section 81 of Tamil Nadu Co-operative Societies Act, 1983, into the alleged financial irregularities including the loan given by the petitioners society on the pledge of jewels fraudulently taken from the fourth respondent society and such enquiry having been ordered only on 12.02.2015, the impugned order could not have been passed on 08.01.2015.

4. The second submission of the learned senior counsel is that in the counter affidavit it has been admitted that an amount of Rs.40 lakhs has been paid by the president of the fourth respondent society, but, however stand has been taken by the third respondent, that it has no bearing on the Interlocutory order passed by the second respondent (impugned order).

5. In my view, the jurisdiction of the second respondent to pass the impugned order has not been questioned. Undoubtedly, proceedings have been initiated under Section 90 of the Act. Sub Section 6 of Section 90 empowers the Registrar or his delegate exercising power under the provisions of the Co-operative Societies Act to pass Interlocutory orders as he deems fit in the interest of justice. The reasons assigned in the impugned order are not challenged by the petitioner society, but they would contend that even before a full fledged enquiry has been conducted, the amounts payable to the petitioners society have been withheld. The purpose of passing interlocutory order is to preserve status quo and to aid in the final relief to be granted. Prima facie facts disclose a shocking state of affairs and if it is established that funds have been siphoned off, it may shake the very the basis of the co-operative movement. The matter require serious consideration by the authorities and the investigation/enquiry should be effective and there should also be a probe as to whether there is any criminal intention behind such action.

6. The learned Senior counsel for the petitioner raised apprehension as regards the manner in which enquiry has been proceeded with and there is an allegation that certain high ranking officials of the Central Co-operative Bank would also required to be enquired into and the enquiry by a Deputy Registrar may not augur well as the Deputy Registrar could be an officer of equivalent cadre or may be even in junior cadre.

7. The learned Additional Advocate General and submitted that the Deputy Registrar is proceeding with the enquiry as a delegate of the Registrar and the powers have been delegated to the Deputy Registrar so as to ensure speedy disposal of the enquiry and to decentralize the matters. Undoubtedly, delegation is required to ensure effective functioning of any administration. But, however, this Court is of the view that in the matter of this nature where the respondents estimate the alleged loss at more than Rs.24 crores, the Registrar should take up the matter by himself or should delegate it to an officer of equivalent rank or in the cadre of Additional Registrar and such officer could be named so that the officer is designated exclusively with that work and he shall conclude the enquiry in expedition fully concentrating on the same. The above direction was infact put across the Court and the learned Additional Advocate General on instructions submitted that the respondents do not resist any such direction being issued and would abide by the directions issued by this Court.

8. Learned senior counsel for the petitioner submitted that if the enquiry is conducted by a higher level officer preferably in the cadre of Additional Registrar, then the petitioner societies will co-operate in the enquiry proceedings and till then amounts already retained in the suspense account may not be adjusted. The plea raised by the learned senior counsel is reasonable, since already the amount has been secured pursuant to

the impugned proceedings and kept in suspense account till enquiry is completed by the officer to be designated by the Registrar of the Co-operative Societies, in terms of the above direction, the amounts shall remain in the suspense account and shall not be adjusted as against the alleged dues.

9. In the light of the above and the stand taken by the petitioners before this Court agreeing to Co-operate in the enquiry there are no grounds made out by the petitioners to challenge the impugned proceedings are held to be perfectly valid and proper with an intention to preserve status quo and to aid the ultimate orders to be passed or action to be taken after the enquiry is completed.

10. Accordingly, the writ petitions fails and are dismissed. There will be a direction to the first respondent to nominate an officer by name in the cadre of Additional Registrar to be the designated officer to conduct the enquiry into the matter, who shall proceed expeditiously in the matter and also examine as to whether there is any criminal intent in the entire transaction and in his opinion if there is a criminal intent, he may recommend for criminal investigation to be conducted parallelly by the competent Police authority. The first respondent shall nominate such an officer to conduct the said enquiry within a period of two weeks from the date of receipt of a copy of this order, with a direction to the second respondent to transmit all the files to the said officer, who shall be designated by the first respondent. The petitioners herein and the respondents 3 and 4 shall co-operate in the expeditious disposal of the enquiry proceedings and produce all records and documents as summoned by the enquiry officer. The enquiry officer in the cadre of Additional Registrar, to be designated, preferably, who has not served in the Coimbatore region, shall endeavour to complete the entire enquiry and pass final order preferably within a period of three months. In case of difficulty in adhering to this time schedule, it is open to the first respondent to approach this Court for necessary further directions. However, the nomination of the officer shall be done within time stipulated supra.

10. In the light of the above directions issued, necessarily the proceedings which are subject matter of challenge in W.P.No.9964 of 2016 has also to be transferred to the Officer who is to be nominated by the first respondent for appropriate action. It is needless to state that whatever amounts are mentioned therein shall be continued to be retained in the suspense account till the enquiry is completed by the designated officer.

11. With the above directions, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

kpr

To

- 1.The Registrar of Co-operative Societies,
Poonamallee High Road,
Chennai-600 010.
- 2.The Deputy Registrar of Co-operative Societies,
Dharapuram,
Tiruppur District.
- 3.The Director,
Department of Co-operative Audit,
Post Box No.420,
Tamil Nadu Slum Clearance Board Office Campus,
No.5, Kamarajar Salai,
Chennai - 600 005.
- 4.The Assistant Director,
Department of Co-operative Audit,
No.137, Vinayagar Koil 7th Street,
I.O.B. Backside,
Moolapalayam,
Erode.

3 cc to Mr. L.P. Shanmugasundaram, Advocate, Sr. 18289, 18287, 18290

1 cc to M/s. C. Prabakaran, Advocate, Sr. 18301

1 cc to Government Pleader, Sr. 18409, 18415

W.P.Nos.36973, 4248 of 2015 and
9664 of 2016 and
M.P.Nos.1 and 1 of 2015 and
W.M.P.Nos.8671 and 8823 of 2016

ALA (CO)
kk 13/4