

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.40430 of 2015

G.Gunasekaran

[PETITIONER]

Vs

- 1 The Registrar of Cooperative Societies
Kilpauk, Chennai-10.
- 2 The Joint Registrar of Cooperative Societies
Vellore Region, Collectorate
Vellore, Vellore District.
- 3 The Deputy Registrar of Cooperative Societies
Vellore Circle
Vellore, Vellore District.
- 4 The General Manager
Vellore District Central Cooperative Bank
officers Line Vellore
- 5 K.C. Raman
Director Vellore District Central Coop.
Bank Officers Line, Vellore
Vellore District.

[RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the 3rd respondent in his proceedings Na.Ka. No. 1848/2015 Sa.Pa. dated 27.11.2015 and quash the same and consequently direct the 3rd respondent to disqualify the 5th respondent from the post of Director in the Board of Directors in the Vellore District Central Cooperative Bank, Vellore.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmuga Sundaram -R1 to R4
Spl.Govt. Pleader

O R D E R

Heard Mr.C.Prakasam, learned Counsel appearing for the petitioner, Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader accepting notice for the respondents 1 to 4 and with their consent the Writ Petition is taken up for final disposal.

2.The petitioner, a member of the Koodapattu Primary Agricultural Co-operative Credit Society, Tirupathur Taluk, Vellore District has filed this Writ Petition, praying for issuance of a writ of certiorari to quash the orders passed by the third respondent dated 27.11.2015, by which the third respondent has rejected the representation made by the petitioner that the fifth respondent has suffered disqualification from holding the post of President of the said Co-operative Society.

3.Earlier the petitioner approached this Court and filed a Writ Petition in W.P.No.35488 of 2015, for issuance of a writ of mandamus to consider the petitioner's representation, wherein he had pointed out as to how the fifth respondent has suffered disqualification. The said writ petition was disposed of by an order dated 03.11.2015, with a direction to conduct an enquiry into the matter and pass orders on merit and in accordance with law. Pursuant thereto, the impugned order has been passed.

4.There is no grievance made by the petitioner as regards the violation of principles of natural justice, since the petitioner was heard before the order was passed. However, two aspects to be noted is that when the Joint Registrar forwarded the papers to the third respondent vide his proceedings dated 16.3.2015, the Joint Registrar referred to section 136-D (11) (ii) of the Tamil Nadu C-Operative Societies Act and directed the Deputy Registrar to take action in the matter and keep the petitioner informed. That aspect of the matter has not at all been dealt with by the third respondent while passing the impugned order.

5.A plea is raised by the learned Special Government Pleader stating that in the light of the savings clause under sub-section (22) of Section 136-D of the Act, section 34 of the Act alone would stand attracted. The second issue would be as

to what was the dues payable by the Society and whether that exceeds the cut off limit of 30%. In this regard, the learned counsel for the petitioner pointed out that the Vellore District Central Co-Operative Bank has given a communication dated 27.4.2015, in which the outstanding arrears is mentioned as Rs.48,99,945/-. However, there is a discrepancy in the figures mentioned by the third respondent in the impugned order. The petitioner alleges certain fouls played in this regard, however, he has not substantiated the same and this Court is also not intended to go into such a plea.

6.In the light of the two issues which have been pointed out in the preceding paragraphs, this Court is of the view that the matter should be re-considered afresh by an independent authority and not the third respondent, who decided the issue.

7.In the result, the Writ Petition is allowed, the impugned order is set aside and the second respondent is directed to nominate some other Deputy Registrar of Co-operative Societies to deal with the petitioner's complaint, issue notice to the petitioner, the fifth respondent as well as the Vellore District Central Co-operative Bank and thereafter take a decision on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

sd/-

Assistant Registrar (CO)

/TRUE COPY/

Sub-Assistant Registrar

rpa

To

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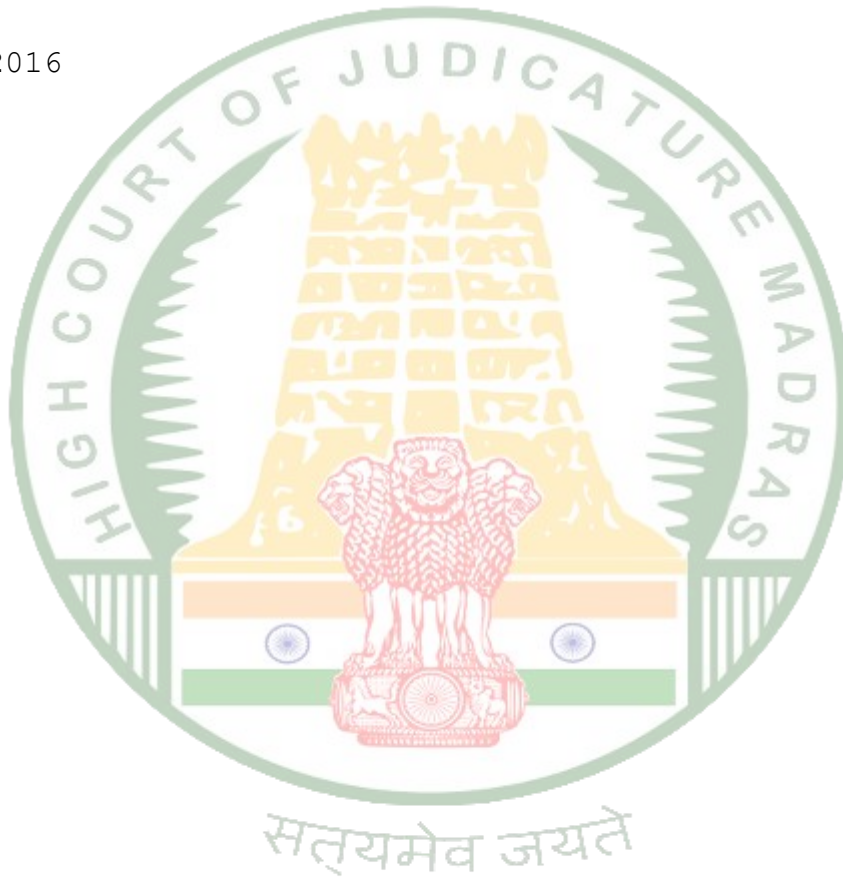
+1 CC to MR.L.P.Shanmuga Sundaram Advocate. SR.NO.3511

+1 CC to MR.C.Prakasam Advocate. SR.NO.3550

+2 CC to Govt.Pleader. SR.NO.3717 & 3268

W.P. No.40430 of 2015

CO-JSU
JD 25/01/2016



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