

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2016

Coram

The Honourable Mr.Justice HULUVADI G.RAMESH
and
The Honourable Mr.Justice V.PARTHIBAN

W.A. No.1122 of 2016 and
CMP Nos.14519 & 14520 of 2016

N.Kalyana Sundaram Appellant/petitioner

Vs.

1. The Deputy Registrar of Co-operative Societies,
Office of the Deputy Registrar of Co-operative Societies,
No.52, Kasukkara Chetty Street,
Mannargudi, Thiruvvarur District.

2. The President,
ZC-94, Sithamallee Primary Agricultural
Co-operative Credit Society,
Sithamallee, Mannargudi taluk,
Thiruvvarur District. Respondents/ Respondents

Writ Appeal is filed under Clause 15 of the Letters Patent, against the order dated 17.03.2016 in W.P.No.9996 of 2016 passed by the learned single Judge of this Court. Writ petition filed under Article 226 of the constitution of India seeking a writ of certiorarified mandamus to call for the records of the second respondent in his proceedings dated 31/01/2016 not permitting the petitioner to retire from service (Posted in 01/02/2016 and served on the petitioner on 10/02/2016) and quash the same and to direct the respondents to settle all the service benefits.

For Appellants : Mr. G.Ilamrugu

For Respondent : Mr.L.P.Shanmugasundaram,
Spl.G.P.(Co.op)

JUDGMENT

(Judgment of the Court was delivered by
HULUVADI G.RAMESH, J.)

This Writ Appeal has been directed against the order of the learned single Judge, dated 17.3.2016 in W.P.No.9996 of 2016 dismissing the writ petition filed by the appellant herein, seeking to quash the proceedings dated 31.1.2016 of the second respondent herein, in not permitting the appellant to retire from service.

2. The appellant, while working as Secretary of Chithamallee Primary Agricultural Co-operative Society had committed certain financial irregularities to the tune of Rs.72,81,000/- and based on the enquiry report under Section 81 of the Act, the second respondent by proceedings dated 25.1.2016 placed him under suspension and thereafter, by further proceedings dated 31.1.2016, the appellant was not permitted to retire from service though he reached the age of superannuation.

3. Aggrieved by the proceedings, dated 31.01.2016 of the second respondent, placing under suspension and not permitting the appellant from service, the appellant filed the writ petition. The main contention raised by the appellant before the learned Judge is that a Co-operative Employee cannot be kept under suspension beyond the date of superannuation as there is no provision either under the Tamil Nadu Co-operative Societies Act or under the Bye-Laws and in support of the said contention, on behalf of the appellant, a decision reported in 2014(2) CWC 31 (R.Murugesan versus The Joint Registrar of Co-operative Societies) was also cited.

4. While dealing with the above said contention, the learned Judge, relying upon the Rule 31(4) of the Special By-Laws of the Societies, which contemplates that the employee under suspension shall not be allowed to retire on attaining the age of superannuation and his suspension shall be deemed to have been extended till the disposal of the disciplinary proceedings against him, dismissed the writ petition and held that the decision relied upon by the appellant would no way help him. At the outset, we do not find any infirmity in the order of the learned Judge in order to interfere with the same. Moreover, as against the impugned proceedings, the appellant has efficacious alternative remedy of appeal. In fact, before the learned Judge, both the learned counsel for the parties sought for a direction to finalize the disciplinary proceedings as well as surcharge proceedings within a time frame and recording the submission, the learned Judge directed to finalize the proceedings within a period of six weeks and also directed the appellant to co-operate with the respondents for completion of the same. Without complying the same, the appellant has come forward with the present appeal, wherein, we do not find any

merits to entertain the same. Accordingly, the Writ Appeal fails and it is dismissed as devoid of merits. It is brought to the notice of this Court by the learned counsel for the respondents that during the pendency of the writ appeal, by order dated 18.6.2016, the first respondent has passed surcharge proceedings under Section 87(1) of the Act and by order, dated 28.09.2016, the second respondent passed dismissal order against the appellant. It is needless to state that the appellant can challenge the said proceedings in the manner known to law. No costs. Consequently, connected CMPs are closed.

Suk

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

- 1 THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES
OFFICE OF THE DEPUTY
REGISTRAR OF CO-OPERATIVE SOCIETIES NO.52
KASUKKARA CHETTY STREET MANNARGUDI
THIRUVARUR DT.
- 2 THE PRESIDENT
ZC-94 SITHAMALLEE PRIMARY AGRICULTURAL CO-
OPERATIVE CREDIT SOCIETY SITHAMALLEE
MANNARGUDI TK THIRUVARUR DT.

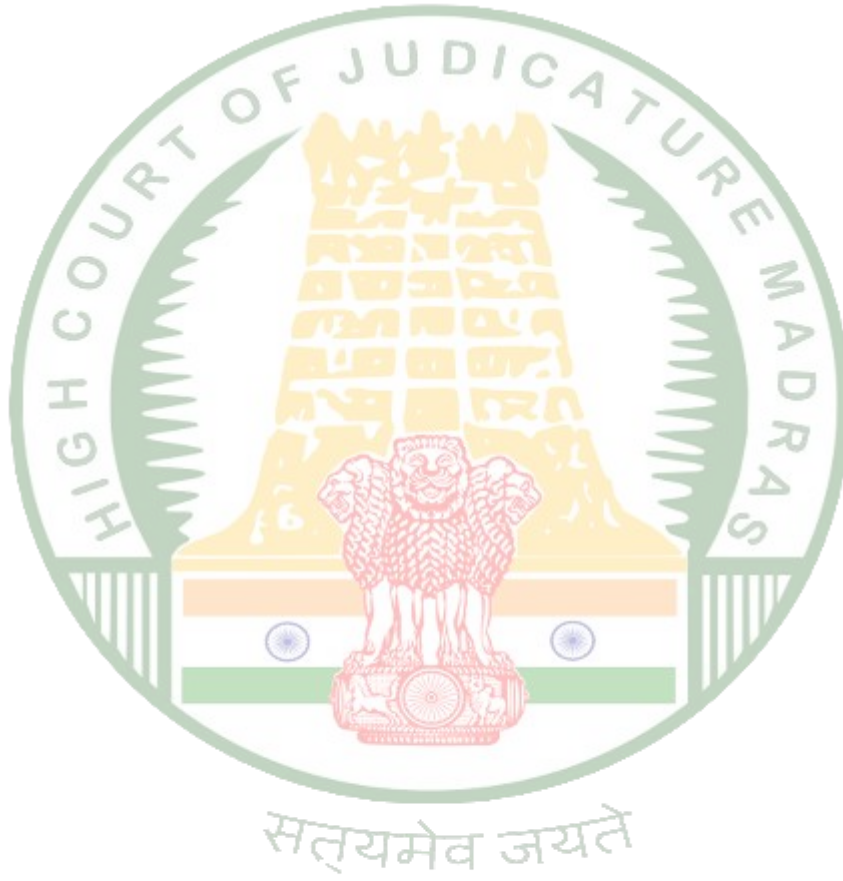
+1cc to Mr.Illamurugu, Advocate, S.R.No.60699
+1cc to Mr.L.P. Shanmugasundaram, Advocate, S.R.No.60949
+1cc to the Government Pleader, S.R.No.60773

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and
V.PARTHIBAN, J.
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