

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2016

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.3513 and 3514 of 2016
and
W.M.P.Nos.2865 to 2868 of 2016

K.Senthil Vel ... Petitioner in both W.Ps.

Vs.

1. The Appellate Authority/Joint Registrar of
Co-operative Societies,
Erode Region,
Erode - 638 003. ... First Respondent in
W.P.No.3513 of 2016
2. Revision Authority/Joint Registrar of
Co-operative Societies,
Erode Region,
Erode - 638 003. ... First Respondent in
W.P.No.3514 of 2016
2. The Deputy Registrar of
Co-operative Societies, Erode Circle,
No.34, Muthumariamman Koil Street,
Thirunagar Colony
Erode - 638 003.
3. No.AA.226, Modakuruchi Primary Agricultural
Co-operative Credit Society Ltd.,
rep. by its President,
Modukuruchi - 638 104,
Erode District. ... Respondents 2 & 3 in both W.Ps.
4. K.S.Shanmugam,
President,
No.AA.226, Modakuruchi Primary Agricultural
Co-operative Credit Society Ltd.,
Modukuruchi - 638 104,
Erode District. ... Respondent No.4 in
W.P.No.3514 of 2016

Prayer in W.P.No.3513 of 2016:

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, to call for entire records relating to the impugned orders passed by the first respondent in his proceedings in Na.Ka.No.9575/2015/Sa.Pa., dated 13.01.2016, along with the impugned orders passed by the second respondent, in the proceedings in Na.Ka.No.5734/2013/Sa.Pa, dated 13.10.2014, and to quash the same.

Prayer in W.P.No.3514 of 2016:

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for entire records relating to the impugned orders passed by the first respondent in his proceedings in Na.Ka.No.1070/2015/Sa.Pa., dated 13.01.2016, along with the impugned orders passed by the third respondent, in the proceedings in Resolution No.5 dated 15.11.2014, and to quash the same.

For Petitioner : Mr.R.Krishnamoorthy

For Respondents 1 to 3 : Mr.P.H.Aravindh Pandian
assisted by
Mr.L.P.Shanmugasundaram
Special Government Pleader
for Co-operative Societies

For Respondent-4 : Mr.C.Prakasam

C O M M O N O R D E R

The Writ Petition, bearing No.3513 of 2016, has been filed, challenging the proceedings, dated 13.01.2016, passed by the first respondent and the proceedings, dated 13.10.2014, of the second respondent. And, Writ Petition No.3514 of 2016 has been filed, challenging the proceedings, dated 13.01.2016, passed by the first respondent and the resolution, dated 15.11.2014, passed by the third respondent.

2. Since the issue involved and the relief sought for in these Writ Petitions are one and the same, these Writ Petitions were heard together and disposed of by this common order.

3. Heard Mr.R.Krishnamoorthy, the learned counsel appearing for the petitioner, Mr.L.P.Shanmugasundaram, learned Special Government Pleader for respondents 1 to 3, and

Mr.C.Prakasam, the learned counsel appearing for the fourth respondent in W.P.No.3514 of 2016.

4. Earlier, the petitioner had approached this Court by filing Writ Petitions, being W.P.Nos.35582 and 35583 of 2015, challenging the proceedings, dated 27.08.2015, 13.10.2014, and the resolution, dated 15.11.2014. After hearing the learned counsel appearing for the parties, it came to light that the Appeal Petition filed by the petitioner was rejected and returned, on the ground that Court fee has been remitted without proper Court fee stamps. Therefore, this Court, by a common order, dated 04.11.2015, allowed those Writ Petitions, and directed the first respondent to take the Appeal on file, and to take note of the fact that the petitioner had remitted the Court fee by way of Court fee stamps, as mentioned in the memo of valuation in the Appeal Petition, and verify as to whether the Court fee is proper and adequate, and if there is any deficient Court fee, the petitioner may be directed to remit the same, and thereafter, decide the Appeal on merits and in accordance with law. In spite of such an order, once again, the Appeal came to be rejected by the impugned proceedings. Therefore, this Court was of the view that notice of Contempt should be issued against the concerned Officer, for not complying with the direction issued by this Court. Thereafter, the learned Special Government Pleader accepted notice on behalf of the respondent/Co-operative Society, and appeared before this Court, and attempted to convince this Court, stating that the rules provide for insisting upon payment of Court fee by way of chellans only. Refuting the same, it was submitted by the learned counsel appearing for the petitioner that, even the earlier incumbents had entertained several Revision Petitions in Erode, by accepting the Court fee stamps. In fact, when the case was heard today, the learned counsel produced the list, showing number of Revision Petitions, which were entertained in the Erode Region, where, the Court fee stamps were effected, and it is found that 9 Revision Petitions have been entertained. Thus, the specific stand taken by the first respondent is not justified. Further, on the last hearing, the learned counsel appearing for the petitioner submitted that, there is a circular issued by the Registrar, permitting remittance of fee chargeable by way of Court fee stamps. Today that circular, bearing No.86/88 CL, dated 22.11.1988, has been placed before this Court, and in Para No.6, it is seen that, the Rule provides for payment of fees, by way of Court fee stamps. Therefore, it is established that the stand taken in the impugned orders are erroneous. Today, the learned Special Government Pleader submitted that the Department is now not insisting upon the payment of the Court fee by way of Court fee stamps, and the matter will be heard on merits and in accordance with law.

There is one more prayer made by him, contending that this Court may consider eschewing the remarks/observations, made by this Court in para No. 6 of its earlier order, dated 04.11.2015, concerning the said Joint Registrar. It is stated that the Joint Registrar is an efficient officer, and though orally the Revision Petitions were directed to be returned, however, the same has been struck off, and written in pen and this is stated to be due to inadvertent mistake, and the Officer regrets for the same.

5. In the light of the above submission, the remarks/observations made against the Joint Registrar, by name Mr.Ramados in para No.6 of the order, dated 04.11.2015 in W.P.Nos.35582 and 35583 of 2015, stands eschewed, and cannot be relied upon by any person for any purpose during the carrier of the said Joint Registrar.

6. In the light of the above fact, the Writ Petitions have to be disposed of with a direction to hear the Revision Petitions on merits. However, in the light of the above controversies, this Court is of the view that to meet the ends of justice, matter has to be heard, and decided by some other Joint Registrar, and not by the Joint Registrar/first respondent. Accordingly, there will be a direction to the Registrar of Co-operative Society to nominate any other Joint Registrar to hear and decide the petitioner's Revision Application after issuing notice to the petitioner and after affording an opportunity of personal hearing and complying with the principles of natural justice. The aforesaid exercise shall be completed by the Registrar of Co-operative Society within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar of
Co-operative Societies,
Erode Region, Erode.

2. The Appellate Authority/Joint Registrar of
Co-operative Societies,
Erode Region,
Erode - 638 003.
3. Revision Authority/Joint Registrar of
Co-operative Societies,
Erode Region,
Erode - 638 003.
4. The Deputy Registrar of
Co-operative Societies, Erode Circle,
No.34, Muthumariamman Koil Street,
Thirunagar Colony, Karungalpalayam,
Erode - 638 003.
5. The President,
No.AA.226, Modakuruchi Primary Agricultural
Co-operative Credit Society Ltd.,
Modukuruchi - 638 104,
Erode District.

+1cc to Mr.R.Krishnamoorthy, Advocate, S.R.No.10661
+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.10455
+1cc to Mr.C.Prakasam, Advocate, S.R.No.10688
+1cc to the Government Pleader, S.R.No.10529

Writ Petition Nos.3513 and 3514 of 2016

NM(CO)
CA(09/03/2016)

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