



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2016

CORAM

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THE HONOURABLE DR.JUSTICE S.VIMALA

Crl.R.C.(MD).No.498 of 2016

and

CRL MP(MD)No.5966 of 2016

1.M.Murugesan

Secretary Q1238 Vilathur Primary
Agricultural Cooperative Credit Society
Vilathur, Vilathur (Post)
Paramakudi Taluk

2.S.Narayanan

President, Q1238 Vilathur Primary
Agricultural Cooperative Credit Society
Vilathur, Vilathur (Post)
Paramakudi Taluk

... Petitioners

-Vs-

U.Gandhiraj

Cooperative Sub Registrar/Superintendent
Inspection Officer under Section 82 of TNCS Act 1983
O/o.the Deputy Registrar of Cooperative Societies,
Paramakudi

... Respondents

Petition filed under Section 397 r/w 401 of the Code of Criminal Procedure against the order dated 13.05.2016 made in Crl.M.P.No.2520/2016 on the file of the Judicial Magistrate, Paramakudi.

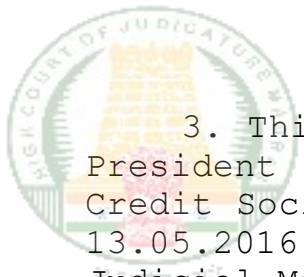
For Petitioner : M/s.C.Jeganathan

For Respondents : Mr.Kandasamy

Government Advocate (Crl.Side)

O R D E R

The respondent herein, in order to exercise the powers of inspection under Section 82 of the Co-operative Societies Act, wanted the petitioners herein to produce documents (24) within a period of seven days, as per the order passed in Crl.M.P.No.2520/2016 on the file of the Judicial Magistrate, Paramakudi dated 13.05.2016. This order is under challenge in this revision petition.



3. This revision petition has been filed by the Secretary and President of Q1238 Vilathur Primary Agricultural Cooperative Credit Society, respectively, seeking to set aside the order dated 13.05.2016 made in Crl.M.P.No.2520/2016 on the file of the Judicial Magistrate, Paramakudi.

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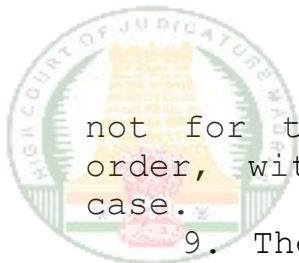
4. Before the Judicial Magistrate, Paramakudi, one Gandhiraj, who is working as Cooperative Sub Registrar/Superintendent, the Inspecting Authority, has filed an affidavit stating that as per the orders of the Deputy Registrar, he wanted to inspect certain documents of the petitioners' Society and accordingly, he issued summons. The affidavit specifically stated that when the summons are sent by Registered Post, the petitioners herein did not receive the same and the summons have been returned with an endorsement 'not claimed'. That made the Inspecting Authority to issue summons for the 2nd time by registered post with acknowledgment due. However, the 1st petitioner has received the summons, but the 2nd petitioner did not receive the same once again and it was returned with an endorsement as 'not claimed'. That compelled the Inspecting Authority, once again, to invoke the provision under Section 81 of the Cooperative Societies Act to approach the learned Judicial Magistrate, seeking a direction to the petitioners to deliver the documents to the Inspecting Authority.

5. At this juncture, the order passed by the learned Judicial Magistrate also requires to be considered in detail.

6. In the order passed by the learned Judicial Magistrate in Crl.M.P.No.2520 of 2016, dated 13.05.2016, the learned Magistrate has specifically mentioned that when notices were issued to the petitioners herein, it was returned as intimation given and not claimed. Therefore, service has been held sufficient on the petitioners herein and the petitioners were set exparte. After hearing the arguments of the Inspecting Authority, the learned Judicial Magistrate directed the petitioners herein to deliver the document Nos.1 to 24 to the Sub Registrar of Cooperative Societies. This order is now under challenge.

7. The learned counsel for the petitioners would submit that the petitioners are suffering from an exparte order and they should be given an opportunity to contest the proceedings and therefore, the order passed by the learned Judicial Magistrate, Paramakudi, has to be set aside.

8. This plea raised on behalf of the petitioners cannot be accepted, as it is not, as if the Court has passed an exparte order, without issuing notice and has issued notice and the petitioners herein, who believed in the strategy of returning summons whenever issued and wherever issued by the authorities concerned, have chosen to return the summons and therefore, it is



not for the petitioners now to contend that it is an exparte order, without giving an opportunity to them to contest their case.

9. The order impugned herein was an outcome of recalcitrant attitude exhibited on the part of the petitioners herein. Therefore, there is no question of the Court giving an opportunity again to the petitioners herein.

10. The next contention raised by the learned counsel for the petitioners is that the documents sought for by the respondents are sent to the statutory auditor, who often visit and check/inspect records of the Society and therefore, the petitioners are not in a position to produce the documents.

11. It is not known how long the Auditor will keep the records with him. It is the duty of the petitioners to get the documents returned from the Auditor and produce the same to the respondent, especially when the Court has ordered production of the documents to the Inspecting Authority. The consistent conduct of the petitioners in returning the summons seems to have belief in adopting dilatory tactics cannot be appreciated at all.

12. Therefore, the Court is a place where the right of the party is protected and it is not a place to the persons, who play hide and seek game before the Court. Therefore, the order of the learned Judicial Magistrate does not suffer from any illegality or infirmity. Consequently, the criminal revision petition fails.

13. In the result, the criminal revision petition is dismissed with compensatory cost of Rs.5,000/- (Five thousand only) to be payable to the Chief Justice Relief Fund. Consequently connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar(C.O)

/True Copy/

Sub Assistant Registrar.

To:

1 The Judicial Magistrate, Paramakudi.

2 The Section officer, Account Section,
Madurai Bench of Madras High court, Madurai

+1CC to M/S.C.Jeganathan, Advocate, SR.No. 40153

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