

HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.04.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.Nos.10019 to 10021 of 2017

and

W.M.P.Nos.11026 to 11028 of 2017

T.Balu .. Petitioner in W.P.No.10019 of 2017
K.Thirugnanasambandam .. Petitioner in W.P.No.10020 of 2017
Manoharan .. Petitioner in W.P.No.10021 of 2017

Vs.

1. The Special Officer / Joint Registrar /
Administrator (Now Managing Director)
Villupuram District Central Co-Operative
Bank, 2, Hospital Road, Villupuram

2. The Deputy Registrar of Co-Operative
Society Collectorate Complex,
Villupuram

3. The Principle District Judge,
Villupuram

.. Respondents in all Writ Petitions

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for records on the file of the respondents relating to the impugned orders of the third respondent dated 29.07.2016 in C.M.A.Nos.5, 6 and 7 of 2013 respectively insofar as remanding the matter to the second respondent to proceed with the enquiries and quash the same.

For Petitioners : Mr.C.Senapathi
in all WP's

For R1 in all : Mr.V.Selvaraj,
Writ Petitions Additional Government Pleader

For R2 in WP.Nos.
10019 and 10021
of 2017 :Mrs.T.Girija, Government Advocate

For R2 in WP No :Mr.V.Selvaraj,
10020 of 2017 Additional Government Pleader

COMMON ORDER

The Petitioners have filed these Writ Petitions under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for records on the file of the respondents relating to the impugned orders of the third respondent dated 29.07.2016 in C.M.A.Nos.5, 6 and 7 of 2013 respectively on the file of the Principal District Court, Villupuram insofar as remanding the matters to the second respondent to proceed with the enquiries and quash the same.

2. According to the petitioners, the first respondent has not furnished the enquiry reports which were conducted under section 81 of the Tamil Nadu Co-operative Societies Act and without furnishing the said enquiry reports, the second respondent has initiated surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act and passed surcharge orders. Aggrieved by the aforesaid orders, the petitioners made appeals in C.M.A.Nos.5, 6 and 7 of 2013 before the Principal District Court, Villupuram. After, hearing the parties concerned, the Principal District Judge allowed the appeals and remanded the matters back to the second respondent to proceed further with the enquiry under Section 87 of the Tamil Nadu Co-operative Societies Act, after furnishing enquiry report under Section 81 of the Tamil Nadu Co-operative Societies Act to the appellants, petitioners herein.

3. Now, the petitioners have filed the present Writ Petitions before this court challenging the remand order dated 29.07.2016 passed by the Principal District Judge, Villupuram. The learned counsel for the petitioners would submit that the impugned orders passed by the Principal District Judge are illegal and the same are liable to be set aside on the ground that the enquiry reports have not been furnished. The counsel for the petitioners also submitted that the appeals are also to be allowed, without remanding back to the original authority,

namely the second respondent herein. Therefore, the impugned orders have to be set aside.

4. Per Contra, the Additional Government Pleader appearing for the respondents would submit that, in the light of the decision of this Court reported in a case of "C.Kamaraj Vs. The Registrar of Co-operative Societies, Chennai and others" reported in 2017 (1) CTC 258, this court held that if no enquiry held under Section 81 or inspection under Section 82 as directed by the Registrar under Section 36 of the Tamil Nadu Co-operative Societies Act, the non-submission of the report to the petitioner would not vitiate the entire proceedings. It was also held that when a copy of the report made under Section 81 of the Act was admittedly not furnished to the petitioner, the said order is to be quashed, but liberty is to be given to the concerned authority to proceed further, after furnishing a copy of the enquiry report.

5. In the light of the aforesaid Judgement of this court, the Principal District Judge has rightly allowed appeal and remanded back to the second respondent to conduct enquiry after furnishing a copy of the enquiry reports and to complete the same in accordance with law. Therefore, this Court is of the view that the petitioners have not made out prima facie case to interfere with the orders of the Principal District Judge and there is no error or illegality in the orders passed by the Principal District Judge. Therefore, the Writ petitions are liable to be dismissed.

6. The Writ petitions are dismissed, No order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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1. The Special Officer / Joint Registrar /
Administrator(Now Managing Director)
Villupuram District Central Co-Operative
Bank, 2, Hospital Road, Villupuram.

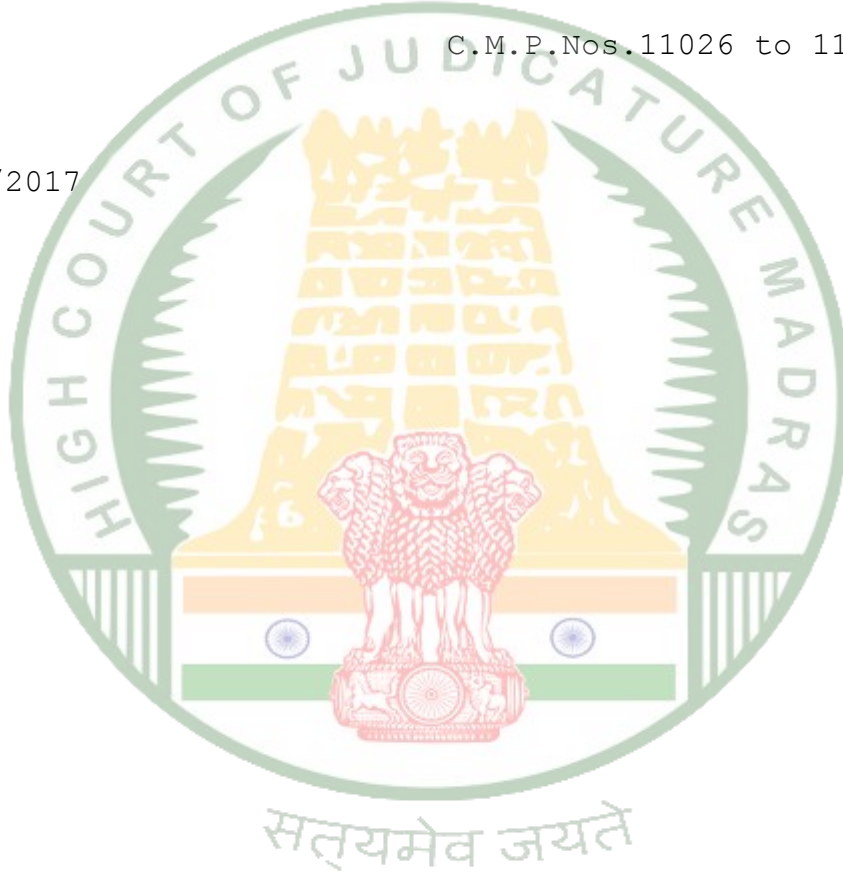
2. The Deputy Registrar of Co-Operative
Society Collectorate Complex,
Villupuram.

3. The Principle District Judge,
Villupuram.

+1cc to Mr.V.Selvaraj, Advocate Sr.24961

W.P.Nos.10019 to 10021 of 2017
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