

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.5482 OF 2017

B.Srinivasan

.. Petitioner

/Vs/

1. The Registrar of Cooperative Societies (Housing),
Tamil Nadu Housing Board Building,
Nandanam, Chennai -35.
2. The Deputy Registrar of Cooperative Societies,
T.Nagar, Chennai - 17.
3. The President,
Tamil Nadu Accountant General's Office staff
Cooperative Building Society,
O/o the Principal Accountants General,
No.361, Anna Salai,
Teynampet, Chennai - 18. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 1st respondent to initiate appropriate criminal proceedings against the perpetrators in accordance with the complaint dt. 21.08.2013 lodged by the 2nd respondent to the 1st respondent and to pass further orders.

For Petitioner : M/S.M.Baskaran.

For Respondents: Mr.L.P.Shanmugasundaram
Spl Government Pleader for R1 and R2
Mrs.T.Girija
Govt. Advocate for R3.

O R D E R

This Writ Petition has been filed seeking to direct the 1st respondent to initiate appropriate criminal proceedings against the perpetrators, in accordance with the complaint dt.

21.08.2013 lodged by the 2nd respondent to the 1st respondent.

2. With the consent of both the parties, the petition is taken up for final disposal, at the stage of admission itself.

3. Heard Mr. M. Baskaran, learned counsel for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader for respondents 1 & 2 and Mrs.T.Girija, learned Government Advocate for the 3rd respondent.

4. Learned counsel for the petitioner submitted that the petitioner is a member of the Tamil Nadu Accountant General's Office Co-operative Building Society. Learned counsel further submitted that originally the subject land in Zamin Pallavaram was intended for 96 persons, who have applied in the year 1989 and an amount of Rs.21,91,907/- was also received by the Society as advance from the said 96 allottees. However, the sale deed could not be executed, for want of approval from CMDA. Normally, the Registrar of Co-operative Societies appoint Special Officers from the Department of Cooperative Societies. However, in the instant case, one Mr. Saravanamoorthy, who was holding the post of Sr. Deputy Accountant General (Administration), in the office of the Principal Accountant General (A&E), was appointed as a Special Officer to the society. After a lapse of 23 years, the said Saravanamoorthy obtained approval for 125 plots, instead of 96 plots, by reducing the extent of the already allotted plots, with an ulterior motive to allot them to persons of his choice, flouting the norms fixed for such allotment. Subsequently, the remaining 29 plots were allotted to ineligible persons, without following the prescribed procedures and those allottees were included in the seniority list. Further, it is alleged by the petitioner that a sum of Rs.45 lakhs of the society fund was diverted to one Mr. Palani, without any concurrence from the General Body. It is also evident from the audit report for the year 2012-2013 issued by the Assistant Director of Co-operative Audit, Chennai, that large scale of irregularities, non recovery of crores of rupees from the creditors etc., had occurred.

5. In the meantime, election for new office bearers were held and in the General Body Meeting, it was resolved to initiate action on the office bearers who have committed irregularities in the Zamin Pallavaram house site allotment scheme and till then no new scheme shall be announced. However, after one year period, new schemes are launched by the officer bearers. Again, some of the officers involve in fraudulent activities and that the 3rd respondent Society is again tainted with charges of corruption, running crores of

rupees. A complaint dated 21.08.2013 has also been given by the 3rd respondent but there is no response by the 2nd respondent. According to the petitioner, the petitioner has made a complaint to the 2nd respondent, the Deputy Registrar of Cooperative Societies, Chennai, pointing out various irregularities committed by the said Saravanamoorthy, who was an Administrator of the 3rd respondent Society. The 3rd respondent has also made a complaint against the aforesaid Saravanamoorthy. Aggrieved by crime of cheating committed by the perpetrators and swindling the public money, the petitioner has filed this writ petition, seeking the aforesaid prayer.

6. Mr.L.P. Shanmugasundaram, learned Special Government Pleader, based on instructions, would submit that pursuant to the complaint made by the President, Tamil Nadu Accountant General's Office Staff Cooperative Building Society on 21.08.2013 and also based on the complaints made by individual members of the society, an enquiry was conducted under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 and one Mr.Muthukumaraswami, Co-operative Sub Registrar was appointed as an Enquiry Officer. After enquiry, he has also submitted his report on 09.09.2015. On the basis of the enquiry report, the allotment of plots in favour of ineligible members had been cancelled and re-allotted to eligible members.

7. Further, Mrs. T. Girija, learned Government Advocate appearing for the 3rd respondent Society, produced a copy of the letter No. RC.290/2017/K dated 16.03.2017 sent by the 2nd respondent, the Deputy Registrar of Cooperative Societies (Housing), wherein it has been stated as follows :-

' This Society is a registered body under a State Act. Any irregularity in the functioning of society will be enquired under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 and follow up action such as surcharge to recover the loss to the society; prosecution for criminal offences as per IPC and disciplinary action as per relevant State Act. There is no custom or scope for referring to CBI enquiry, which is meant for Central Government Officials.

The Assistant Comptroller & Auditor General (P) & Chief Vigilance Officer assured that proper action will be taken as per conduct rules on the erred officials and asked us to take action regarding affairs of the society.

The Co-operative Department also taken action, which is necessary i.e.

Cancellation of plots allotted to ineligible members and re-allotment to eligible members.. '

8. Recording the above statement made by learned Special Government Pleader and learned Government Advocate, the Writ Petition is dismissed. No order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar of Cooperative Societies (Housing),
Tamil Nadu Housing Board Building,
Nandanam, Chennai - 17.03.2014.
2. The Deputy Registrar of Cooperative Societies,
T.Nagar,
Chennai - 17.03.2014.
3. The President,
Tamil Nadu Accountant General's Office staff
Cooperative Building Society,
O/o the Principal Accountants General,
No.361, Anna Salai, Teynampet, Chennai - 18.

+1cc to Mr.M.Baskaran, Advocate, S.R.No.17196
+1cc to Mr.T.Girija, Advocate, S.R.No.17334
+1cc to the Government Pleader, S.R.No.17737

W.P. No.5482 of 2017

SJ(CO)
CS(24/05/2017)

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