

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.5548 of 2017
and W.M.P.Nos.5890 and 5891 of 2017

R.Pushpanathan

... Petitioner

-vs-

- 1.Registrar of Co-operative Societies (Housing),
TNHB Complex, Nandanam,
Chennai - 600 035.
 - 2.The Deputy Registrar of Co-operative Societies (Housing),
Chengalpattu (Po) & (Tk).
 - 3.Ambattur Oragadam Co-operative
Building Society Ltd.,
rep. by its President,
31/02, Jai Maruthi Flats,
Sakthi Vinayagar Koil Street,
Vinayakapuram,
Ambattur, Chennai - 600 053.
- ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari Mandamus, calling for the records of the first respondent relating to his order Rc.576/2017 Sa.Pa.1 dated 01.02.2017 and of the third respondent relating to his order dated 10.01.2017 and quash both the orders and consequently direct the respondents to permit the petitioner to retire from the service of the third respondent Society; to pay the salary for September and October 2016 and also for the period upto the date of actual retirement to be permitted and also to make payment of all the retirement benefits, namely, Provident Fund, Gratuity, value of Surrender leave, Security Deposit with interest at 18% from the date when these payments became due and till the actual date of payment.

For Petitioner : Mr.P.Anbarasan

For Respondents: Mr.L.P.Shanmuga Sundaram
Special Government Pleader

O R D E R

This writ petition has been filed against the impugned order passed by the Registrar of Co-operative Societies (Housing), the first respondent herein, directing the petitioner to approach the Deputy Registrar of Co-operative Societies (Housing), Chengalpattu, the second respondent herein, to work out his grievance under the revision jurisdiction.

2. Assailing the impugned order directing the petitioner to approach the Deputy Registrar of Co-operative Societies (Housing), Chengalpattu as though he has been conferred with revisional jurisdiction, the present writ petition has been filed.

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

4. Learned counsel appearing for the petitioner would heavily contend that Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as "the Act") confers revisional power on the Registrar, either on his own motion or on application, call for and examine the record of any officer subordinate to him or of the Board or any officer of the registered Society or of the competent authority constituted under Sub-Section (3) of Section 75. Therefore, the petitioner, who was aggrieved by an order passed by the third respondent at the behest of the first respondent, has chosen to work out the remedy by way of revision under Section 153 of the Act. The first respondent, the Registrar of Co-operative Societies (Housing) being the only revisional authority cannot direct the petitioner to approach the second respondent, who has no jurisdiction or revisional jurisdiction. Referring to Section 153 of the Act, the learned counsel for the petitioner submitted that when the Registrar of the Co-operative Societies (Housing) is conferred with revisional jurisdiction unless his power is recalled and delegated by any notification or Government Order, the first respondent ought not have passed an order directing the petitioner to approach the second respondent. On this basis, he pray for setting aside the impugned order.

5. In reply, Mr. L. P. Shanmugasundaram, learned Special Government Pleader appearing for the respondents also taking note of Section 153 of the Act, would submit that the only revisional authority under the Act is the Registrar of the Co-operative Societies (Housing) conferred under Section 153 of the Act. Therefore, when the petitioner has preferred a revision before the first respondent, the impugned order directing the

petitioner to approach the second respondent, Deputy Registrar of Co-operative Societies (Housing), Chengalpattu is without jurisdiction. Even if the petitioner, as per the direction given by the first respondent, approaches the second respondent, no lawful order can be passed by exercising the revisional jurisdiction and even though, the second respondent had passed an order also that may not carry any legal sanctity. Again referring to G.O.(2D)No.108 Cooperation, Food and Consumer Protection Department dated 31.08.2005, it is submitted before this Court that when certain powers of the Registrar are delegated to the subordinate officers under G.O.(2D)No.108, Cooperation and Food and Consumer Protection Department dated 31.08.2005, no such power has been given to the Deputy Registrar, Co-operative Societies (Housing) to exercise the revisional power conferred on the Registrar of Co-operative Societies (Housing).

6.A perusal of Section 153 of the Act read with G.O.(2D) No.108, Food and Consumer Protection Department dated 31.08.2005 clearly shows that the learned Special Government Pleader is perfectly right in saying that the petitioner's revisional remedy lies only before the first respondent. Therefore, the impugned order is liable to be set aside.

7.Accordingly, the impugned order is set aside and the petitioner is directed to re-present the revision petition under Section 153 of the Act before the first respondent. On such representation being made, the first respondent is hereby directed to take up the same on board and pass appropriate orders on merits and in accordance with law, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

8.With the above observation, the writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

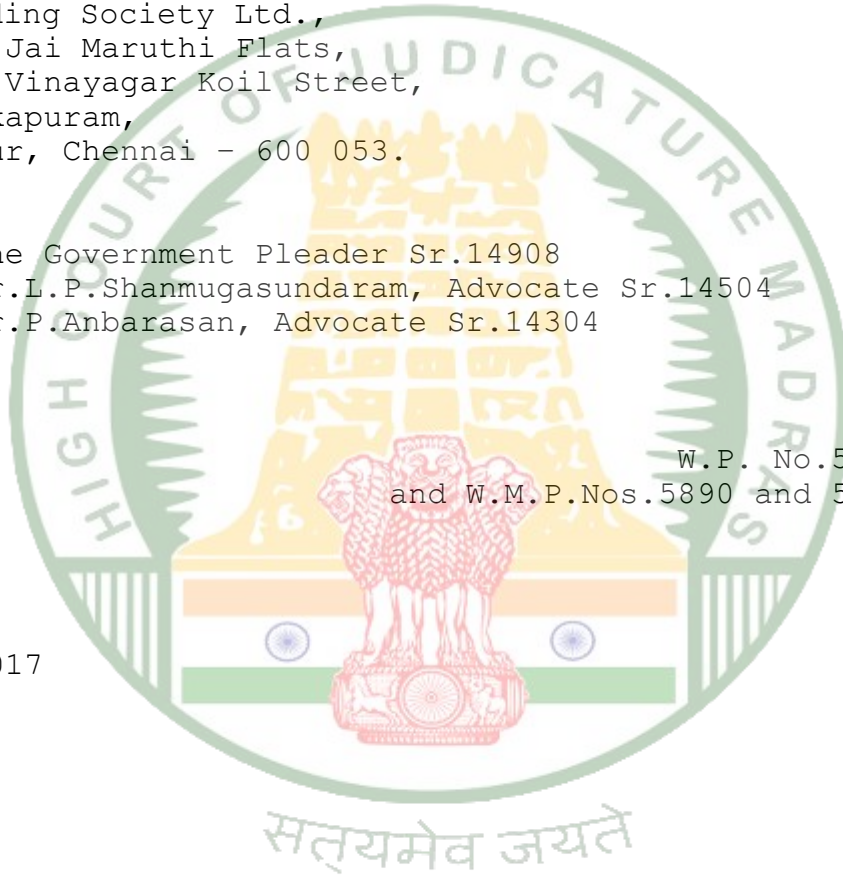
To

- 1.Registrar of Co-operative Societies (Housing),
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- 2.The Deputy Registrar of Co-operative Societies (Housing),
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- 3.The President,
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Building Society Ltd.,
31/02, Jai Maruthi Flats,
Sakthi Vinayagar Koil Street,
Vinayakapuram,
Ambattur, Chennai - 600 053.

+1cc to the Government Pleader Sr.14908
+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr.14504
+1cc to Mr.P.Anbarasan, Advocate Sr.14304

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srg 7/4/2017



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