

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.9762 of 2014 and
MP No.1 of 2014

S.K.Subramani

..Petitioner

Vs.

1. The Deputy Registrar of Cooperative Societies,
Namakkal Zone,
Namakkal

2. The President,
S.417, Rasipuram Cooperative Primary
Agricultural & Rural Development
Bank Limited,
Rasipuram, Namakkal District

..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records relating to the impugned order dated 25.02.2014, made in Na.Ka.No.1916/2013/ Sa.Pa passed by the first respondent and to quash the same.

For Petitioner : Mr.C.Prabakaran

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

ORDER:

According to the learned counsel for the petitioner, the petitioner was elected as the President of the S.1285, Singalanthapuram Primary Agricultural Cooperative Thrift Society during the year 1996 to 2001. Against the petitioner and others, a surcharge proceedings was initiated by the first respondent for the misappropriation of funds and an award was passed on 29.01.2010. Aggrieved by the said order, the parties therein filed an appeal and the same is pending. While being so, during the year 2013, the petitioner was elected as a member

of the Board of Directors of the said society and has been continuing in the post. At this juncture, the second respondent has issued a show cause notice dated 17.12.2013 to explain as to why the petitioner should not be disqualified in view of the above award. The petitioner submitted his explanation that the surcharge proceedings is not maintainable as the same has not been initiated within 7 years from the date of the incident and also stated that an appeal proceedings is also pending. But the first respondent has issued an order dated 25.02.2014 disqualifying the petitioner from the post of directorship. Hence, the petitioner has filed the writ petition before this Court.

2. The petitioner has filed the writ petition challenging the order dated 25.02.2014 passed by the first respondent by raising the ground that the proceedings has not been initiated within the 7 years' period as prescribed under the law and hence, the same is barred by limitation.

3. During the course of arguments, the learned Special Government Pleader would submit that there is an appeal remedy under Section 152 of the Tamil Nadu Cooperative Societies Act, 1983, the petitioner has to file an appeal under the Act. Hence, without exhausting the remedy, filing a writ petition before this court is not maintainable and the same is liable to be dismissed.

4. The learned counsel for the petitioner also conceded that there is a provision under the Act to file an appeal before the Registrar under Section 152 of the said Act, but seeks liberty to the petitioner to file an appeal within the time fixed by this Court.

5. In view of the submissions made by the learned counsel for the parties, the writ petition is dismissed as not maintainable. However, it is open to the petitioner to file an appeal under Section 152 of the Tamil Nadu Cooperative Societies Act, 1983, if so advised, within a period of four weeks from the date of receipt of a copy of this Order.

6. In the meantime, no coercive steps shall be taken by the Department for the aforesaid period.

7. The Registry is directed to return the original impugned order passed by the first respondent after obtaining a copy of the same.

8. The writ petition is dismissed as above.
Consequently, the connected miscellaneous petition is closed.
No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To:

1. The Deputy Registrar of Cooperative Societies,
Namakkal Zone,
Namakkal

2. The President,
S.417, Rasipuram Cooperative Primary
Agricultural & Rural Development
Bank Limited,
Rasipuram, Namakkal District

+1cc to M/s.L.P.Shanmugha sundaram, Special Government Pleader
sr.64010

+1cc to M/s.C.Prabakaran, Advocate sr.63933

+1cc to Government Pleader sr.64536

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nrI (co)
ss (25/10/2017)

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