

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.30666 of 2017
and
W.M.P.No.33576 of 2017

S.Komalavalli

...Petitioner

Vs.

1. The Registrar of Cooperative Societies (Housing)
Tamilnadu Cooperative Housing federation,
No.48, Ritherdon Salai, Veppery,
Chennai - 600 007
2. VSNL Employees Co-operative Housing Society Ltd.,
represented by its President,
No.4, Swamy Sivananda Salai,
Chennai - 600 002. ... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.6939/2017/Sa.Pa.1, dated 02.11.2017 and quash the same and consequently direct the 1st respondent to entertain the petitioner's appeal dated 21.10.2017 and dispose of the same on merits within the stipulated time as fixed by this Court.

For Petitioner: Mr.C.Prakasam

For Respondent : Mr.V.selvaraj,

Additional Government Pleader for R1

Mr.L.P.Shanmugasundaram,

Special Government pleader for R2.

ORDER

The petitioner is aggrieved against the proceedings dated 02.11.2017 of the first respondent rejecting the appeal filed by the petitioner on the reason that the same is not maintainable under Section 152(2) (a) of the Tamil Nadu Co-operative Societies Act,1983.

2. According to the first respondent, the petitioner should have filed appropriate proceedings under Section 90 before the concerned authority and not under Section 152(2) (a) before the first respondent.

3. After notice, the learned counsel appearing for the first respondent fairly submitted that the view taken by the first respondent in the impugned order is not supported by the provisions of law and on the other hand, the first respondent can very well entertain the appeal under section 152(2)(a) of the said Act. Therefore, he submitted that the impugned order may be set aside and the matter may be remitted back to the first respondent for considering the matter on merits and in accordance with law.

4. Considering the scope of Section 152(2)(a) of the said Act and the above submission made by the learned counsel for the first respondent, the writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the first respondent for entertaining the petitioner's appeal dated 21.10.2017 and pass orders on the same on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. If any stay petition is filed by the petitioner, the same shall be taken up first and decided within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

+lcc to Mr.C.Prakasam, Advocate Sr.No.85473
+lcc to Mr.L.P.Shanmugasundaram, Advocate SR.No.85204
+lcc to Government Pleader SR.No.85851

GJ(CO)
sm:12.12.2017

W.P. No.30666 of 2017

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