IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.09.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.11446 of 2015

1. M.Vellaisamy ... Petitioners
2.A.Annadurai
3. Tmt.K.Bakkiyarathi
4. A.Govindan
5. R.Venkatachalam
6. A.Shanmugam

- Vs -

1. The Presiding Officer,
Co-operative Tribunal,
Principal District Judge,
Salem, Salem District.

2. Deputy Registrar of Co-operative Societies,
Salem Circle, Salem District.

3. The Special Officer,
S.402, The Yercaud Large Size Multi Purpose
Co-operative Societies (LAMP),
Yercaud, Salem District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the order passed by the 2nd respondent in his Proceedings Na.Ka.6790/2004 Saba dated 22.05.2005 as confirmed by the 1st Respondent in C.M.A.C.S.No.2 of 2006 dated 27.03.2014 and Quash the same.

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For Petitioners : Mr.C.Selvaraju, Senior Counsel
for M/s.C.S.Associates

For R1 : Tribunal

For R2 & R3 : Mr.L.P.Shanmugasundaram,
Special Govt.Pleader

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O R D E R

According to the petitioner, at the time of enquiry under Section 87 of the Tamil Nadu Co-operative Societies Act, the petitioners have specifically made request to grant time for perusal of records and documents. The said fact has been recorded in the award proceedings. Despite the request, the 2nd respondent has not furnished the documents and not permitted the petitioners to peruse the relevant documents. However, the petitioners have submitted their explanation and therefore, the award has been passed. The petitioners have specifically raised the ground that without furnished the documents requested by the petitioners, the award could not be passed. However, the Tribunal came to a conclusion that furnishing of documents is not mandatory and dismissed the appeal.

2. The learned counsel for the petitioners has mainly raised a ground in the present writ petition that the respondent has neither furnished the documents nor permitted the petitioners to peruse the same at the time of enquiry before the 2nd respondent. In the light of the provisions under the Act, the petitioner is entitled to peruse the documents. Therefore, the judgment and decree passed by the Tribunal is liable to be set aside.

3. The learned counsel for the respondents would submit that sufficient opportunity was granted to the petitioners for perusing the documents. Admittedly, the contentions raised by the petitioners are considered and the same was rejected by the Tribunal. Therefore, there is no warrant to interfere with the order passed by the Tribunal.

4. Heard the rival submissions made by the learned counsel for the parties.

5. According to the learned counsel for the petitioners, the Tribunal has not considered the decisions of this Court in the case of Sambandam v. The Deputy Registrar (Credit) Co-operative Societies, Mylapore, Madras reported in 1999 III MLJ 310 and in the case of V.Subramanian v. Assistant Director (Sugar Project) Surcharge Officer, Office of the Commissioner of Sugars, Chennai and another reported in 2005 (2) L.L.N.503 and in the case of R.Kamalam v. The Deputy Registrar of Co-operative Societies, Thuckallay, Kanyakumari District and 2 others reported in 2004-3-L.W. 53 and in the case of T.V.Ekambaram and two others v. The Co-operative Tribunal-cum-District Judge, Madurai and two others reported in 2000 (II) CTC 659. Further relied on the decision of this Court in the case of C.Kamaraj & Others v. The Registrar of Co-operative Societies & Others reported in 2017 (1) CTC 258.

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6. Hence, it is clear from the above decisions that since the respondent has neither furnished the documents nor permitted the petitioners to peruse the documents, the judgment passed by the Tribunal is liable to be set aside. Therefore, the other contentions raised by the parties on merits are requires for adjudication before the appellate court. Therefore, in the interest of justice, this Court is inclined to set aside the judgment passed by the Tribunal, and inclined to pass the following orders:

i) The Writ Petition is allowed and the impugned judgment passed by the Tribunal is set aside and remanded to the Tribunal to pass appropriate judgments on merits and in accordance with law.

ii) The 2nd respondent is directed to furnish copies of the necessary documents or permit the petitioners to peruse the copy of the documents on the request made by the petitioners. Thereafter, both the parties are directed to extend co-operation to dispose of the appeal as early as possible preferably, within a period of six months from the date of receipt of a copy of this order. No costs.

sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

ssn

To

1. The Presiding Officer,
Co-operative Tribunal,
Principal District Judge,
Salem, Salem District.

2. Deputy Registrar of Co-operative Societies,
Salem Circle, Salem District.

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3. The Special Officer,
S.402, The Yercaud Large Size Multi Purpose
Co-operative Societies (LAMP),
Yercaud, Salem District.

+ 1 cc to The Government Pleader in Sr.70107

+ 1 cc to M/s. L.P.Shanmugasundaram, Advocate sr.6960

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