

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH  
AND  
THE HON'BLE MR.JUSTICE G.JAYACHANDRAN

W.A.Nos.350 and 351 of 2017  
and

C.M.P.Nos.5396, 5397, 7191 and 7192 of 2017

- 1.The Joint Registrar of Co-operative Societies,  
Erode Region, Erode, Erode District.
- 2.The Management of No.3324, Nerunjipettai Primary  
Agricultural Co-operative Credit Society Limited,  
Nerunjipettai Post,  
Anthiyur Taluk, Erode District,  
rep.by its Secretary ... Appellants in both W.As./  
1 & 2 Respondents

-vs-

- 1.N.R.Chandrasekaran
- 2.V.Jegannathan
- 3.S.Ramasamy
- 4.E.Saleemabeebi
- 5.S.Kalyani
- 6.K.Manoharan
- 7.N.Krishnan
- 8.S.Ramachandran
- 9.K.Anthonyraj
- 10.R.Chithra
- 11.Palaniammal

... Respondents 1 to 11 in  
W.A.Nos.350 and 351/2017

- 12.N.N.Malarkode

... Respondent No.12 in  
W.A.No.350 of 2017

Appeals filed under Clause 15 of Letters Patent, against the order dated 18.01.2017 passed by this Court in W.P.Nos.43238 and 43239 of 2016.

WP.No.43238 and 42239 of 2016:Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the order in Na.Ka.8291/2015/Saba and Na.Ka.8282/2015/Saba dated 21.11.2016 and dated 22/11/16 on the file of the First respondent and quash

the same.

For Appellants                ::     Mr.S.T.S.Murthi,  
Additional Advocate General  
assisted by  
Mr.L.P.Shanmugasundaram,  
Special Government Pleader

For Respondents            ::     Mr.S.Doraisamy for  
R1 to R3 and  
R5 to R11 in both W.As.

COMMON JUDGMENT

(Judgment of the Court was delivered by  
HULUVADI G.RAMESH, J.)

The matter relates to misappropriation of funds of the second appellant-Society. By order dated 18.01.2017 made in W.P.Nos. 43238 and 43239 of 2016, this Court quashed the orders passed by the first appellant herein in Na.Ka.No.8291/2016/Saba and Na.Ka.No. 8282/2015/Saba, both dated 22.11.2016, by which the first appellant has superceded the Board of the second appellant-Society under Section 88(1) of the Tamil Nadu Cooperative Societies Act, 1983 and disqualified the respondents 1 to 11 from holding the post of Directors in any of the Cooperative Societies under Section 36(1) of the Tamil Nadu Cooperative Societies Act. Observing that the first appellant has neither followed the principles enunciated in the decision of this Court in Vallipattu Primary Agricultural Coop.Bank v. Registrar of Coop. Societies, Chennai [1998 (2) CTC 351], nor Section 88 of the Tamil Nadu Cooperative Societies Act nor Section 81(3) r/w Rule 104(7) of the Tamil Nadu Cooperative Societies Rules, 1983, this Court held that the impugned proceedings are illegal, and accordingly, quashed the said proceedings. Further a liberty was granted to the first appellant to take remedial measures by proceeding against the respondents 1 to 11 as per the provisions of the Tamil Nadu Cooperative Societies Act and the observations made in the order, if they are found responsible on the proved charges levelled against them.

2.Challenging the said orders, the present writ appeals have been filed, contending that the respondents 1 to 11, members of the Board, have reinstated the Secretary of the second appellant Society viz. Murugesan, who was placed under suspension for misappropriation of funds of the Society and having several criminal cases; that the members of the Board have made alleged payment of bonus, 100% subsistence allowance, payment of surrender leave and the Society's contribution for the non-regularised period to the said delinquent employee.

3.This Court heard the arguments advanced by the learned counsel on either side.

4.An enquiry was conducted under Section 81 of the Tamil Nadu Co-operative Societies Act, against one Murugesan, who was working as Secretary of the second appellant Society and a report to that effect was also submitted by the Enquiry Officer, whereby it is stated that the employees of the Society have caused loss to the tune of Rs.11,02,745.50 to the second appellant Society. In furtherance of the same, a complaint was lodged by the first appellant against the said Murugesan and two others and subsequently he was placed under suspension by the Board of Management. A punishment of stoppage of increment for a period of one year with cumulative effect was imposed to the said Murugesan. Subsequently, the said Murugesan was reinstated into service on 25.07.2014. Thereafter, another enquiry was initiated against the said Murugesan and on the basis of the report submitted, a fresh criminal case was registered on 28.08.2014 and he was arrested and remanded to judicial custody and subsequently, he was placed under suspension. Finally the matter ended by passing two proceedings dated 21.11.2016 by which the first appellant has superseded the Board of the second appellant-Society under Section 88(1) of the Tamil Nadu Cooperative Societies Act, 1983 and disqualified the respondents 1 to 11 from holding the post of Directors in any of the Cooperative Societies under Section 36(1) of the Tamil Nadu Cooperative Societies Act. Thereafter, this Court quashed the said proceedings as illegal and a liberty was granted to the first appellant to take remedial measures by proceeding against the respondents 1 to 11 as per the provisions of the Tamil Nadu Cooperative Societies Act and the observations made in the order, if they are found responsible on the proved charges levelled against them.

5.Now the appellants have come up with these appeals, on the ground that the respondents herein have indulged in irregularities and misappropriation of funds of the second appellant-Society and that only after conducting proper and elaborate enquiry and only after getting the explanation from respondents 1 to 11, the orders dated 22.11.2016 were passed by the first appellant, and hence the order passed by the learned single Judge has to be set aside. This Court would only say that since there is an observation in the common order passed by the learned single Judge granting liberty to the first appellant to take remedial measures by proceeding against the respondents 1 to 11 herein as per the provisions of the Tamil Nadu Co-operative Societies Act and also the observations made by the Court in the order passed in the writ petitions, the first appellant, viz. Joint Registrar of Co-operative Societies, shall hold de novo enquiry by giving proper notice to the parties

concerned and proceed against the respondents, if they are found responsible on the proved charges levelled against them, and dispose of the matter as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this judgment. The respondents shall cooperate with the authority for early disposal of the matter.

6.The writ appeals are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Joint Registrar of Co-operative  
Societies Erode Region, Erode  
Erode District

2.The Secretary  
The Management of No.3324  
Nerunjipettai primary Agricultural  
Co-operative Credit Society Ltd;  
Nerunjipettai Post, Anthiyur Taluk,  
Erode District

+2 ccs to Mr.S.Doraisamy Advocate sr 51099 & 51100  
+2 ccs to Mr.L.P.Shanmugasundaram Advocate sr 51698  
+1 cc to the Government Pleader sr 52025

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and  
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