

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2017

CORAM :

THE HON'BLE MR. JUSTICE T.RAJA

Cont.P.No.2295 of 2016
in WMP.No.20204 of 2016

in
W.P.No.23579 of 2016
and

Review Application (Writ) No.1 of 2017
in W.P.No.23579 of 2016

Cont.P.No.2295 of 2016

R.Purushothaman ... Petitioner
vs.

1. Mr.K.M.Velliangiri
Registrar of Co-operative Societies (Housing)
Tamil Nadu Housing Board Complex,
Nandanam, Anna Salai,
Chennai - 600 035.
2. Mrs.C.Yasodha
Enquiry Officer
Kumbakonam Town Co-operative House
Building Society Ltd., Z-127,
O/o. Regional Deputy Registrar of Co-operative
Societies (Housing),
No.13/107, Ramalinga Adigalar Arakkattalai Building,
Daniel Thomas Nagar,
Tanjore - 7. ... Respondents

Contempt Petition filed under Section 11 of Contempt
of Courts Act to punish the respondents herein for their
wilful disobedience and non-compliance of the orders of
this Court made in W.M.P.No.20204 of 2016 in W.P.No.23579
of 2016, dated 05.08.2016.

For petitioner : Mr.C.Prakasam

For respondents : Mr.L.P.Shanmugasundaram, Spl.GP
for R1 Mrs.T.P.Savita for R2.

Rev. Application (W) No.1 of 2017

R.Purushothaman

... Petitioner

vs.

1. The Principal Secretary to Government
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.
2. The Registrar of Co-operative Societies,
(Housing), Tamil Nadu Housing Board Complex,
Nandanam, Anna Salai,
Chennai - 600 035.
3. The Regional Deputy Registrar of Co-operative Societies
(Housing),
No.13/107, Ramalinga Adigalar Arakkattalai Building,
Daniel Thomas Nagar,
Tanjore - 7.
4. A.Needhimohan
Regional Deputy Registrar of Co-operative Societies
(Housing),
No.13/107, Ramalinga Adigalar Arakkattalai Building,
Daniel Thomas Nagar,
Tanjore - 7.
5. The President
Kumbakonam Town Cooperative House
Building Society Ltd., Z-127,
No.78, Bakthapuri Street, Kumbakonam,
Tanjore District.
6. The Enquiry Officer
Kumbakonam Town Cooperative House
Building Society Ltd., Z-127,
O/o. Regional Deputy Registrar of Cooperative
Societies (Housing),
No.13/107, Ramalinga Adigalar Arakkattalai Building,
Daniel Thomas Nagar,
Tanjore - 7.

... Respondents

Review Application filed under Order 47 Rule 1 r/w
114 of CPC to review the order passed in W.P.No.23579 of
2016, dated 16.12.2016.

For petitioner : Mr.C.Prakasam

For respondents : Mr.M.Elumalai, GA for R1
Mr.V.Selvaraj, AGP (Co-op) for
R2 and R3
Mr.M.S.Palanisamy for R5
Mrs.T.P.Savitha for R6

COMMON ORDER

The Contempt Petition in Cont.P.No.2295 of 2016 has been filed to punish the respondents herein for their wilful disobedience and non-compliance of the orders of this Court made in W.M.P.No.20204 of 2016 in W.P.No.23579 of 2016, dated 05.08.2016.

2. The Review Application in Rev.Appl.No.1 of 2017 has been filed by Mr.R.Purushothaman to review the order, dated 16.12.2016 passed in W.P.No.23579 of 2016, in which this Court has dismissed the writ petition as withdrawn recording the statement and endorsement made by Mr.C.Prakasam, learned counsel appearing for the petitioner therein. The said writ petition No.23579 of 2016 has been filed challenging the correctness of the order, dated 03.06.2016 passed by the Registrar of Cooperative Societies (Housing), Tamil Nadu Housing Board Complex, Nandanam, Chennai, directing the officer to conduct an enquiry on the basis of the letter, dated 23.04.2016.

3. Without knowing the consequence, Mr.C.Prakasam, learned counsel appearing for the writ petitioner therein wrongly withdrew the writ petition in W.P.No.23579 of 2016, which came up along with W.P.No.36147 of 2016. When these two writ petitions were dismissed as withdrawn, immediately he has realised the mistake that he has wrongly withdrawn the W.P.No.23579 of 2016 and thereupon, he has decided to pursue the said writ petition. Hence he has filed the present Review Application to recall the order, dated 16.12.2016 passed in W.P.No.23579 of 2016 withdrawing the writ petition as dismissed as withdrawn.

4. Mr.C.Prakasam, learned counsel appearing for the petitioner submit that Mr.R.Purushothaman had already filed writ petition in W.P.No.17875 of 2016 under Article 226 of the Constitution of India, seeking a direction to the Registrar of Co-operative Societies (Housing), Tamil Nadu Housing Board Complex, Nandanam, Chennai to enquire the issues relating to the fifth respondent society by appointing enquiry officer to enquire with sale deed executed in the Special Officer Regime and purchase of two plots by A.Needhimohan, the Regional Deputy Registrar of Co-operative Societies (Housing), Thanjavur in the name of the fourth respondent wife's sister's name therein at lesser rate than the guideline value on the basis of written representation dated 23.04.2016.

5. In the said writ petition No.17875 of 2016, this Court, by order, dated 12.05.2016 directed the second respondent therein, The Registrar of Co-operative Societies (Housing), to conduct enquiry on the basis of the representation, dated 23.04.2016 and pass appropriate orders within a period of three weeks from the date of receipt of the order.

6. While there is a specific and clear direction given to the Registrar of Co-operative Societies (Housing), Tamil Nadu Housing Board Complex, Nandanam, Chennai, to conduct enquiry on the basis of the representation dated 23.04.2016, the Registrar ought not to have delegated the power, vide order, dated 03.06.2016 to any other officer, that would amount to violation of the direction given by this court on 12.05.2016 passed in W.P.No.17875 of 2016. In view of the above direction having been ignored at the time of final order withdrawing the writ petition, Review Application has been filed. Therefore, the learned counsel for the petitioner pleaded to allow prayer in the Review Application.

7. Mr.M.S.Palanisamy, learned counsel appearing for the fifth respondent society would submit that this Court while disposing of the writ petition on 12.05.2016 in W.P.No.17875 of 2016, the respondents were not heard and it is an exparte order. However, when direction was given to

the Registrar of Co-operative Societies (Housing), Tamil Nadu Housing Board Complex, Nandanam, Chennai to conduct enquiry on the basis of the representation, dated 23.04.2016 within a period of three weeks from the date of receipt of the copy of the order, the Registrar of Co-operative Societies (Housing), Tamil Nadu Housing Board Complex, Nandanam, Chennai, instead of conducting enquiry by himself has directed Mrs.C.Yasodha, Co-operative Sub-Registrar, who was already designated as Enquiry Officer to go into the very same allegation along with other charges relating to the Kumbakonam Town Co-operative House Building Society Ltd., Z-127, Kumbakonam for two reasons. That conducting enquiry into the same allegation by the Registrar would unnecessarily cause wastage of time. Moreover, this would unnecessarily interfere with the enquiry already ordered by appointing Mrs.C.Yasodha, Co-operative Sub-Registrar.

8. However, Mr.M.S.Palanisamy, learned counsel appearing for the fifth respondent would submit that even today the Registrar of Co-operative Societies, Tamil Nadu Housing Board Complex, Nandanam, Chennai has no hesitation to hold independent enquiry as ordered by this Court on the basis of the representation, dated 23.04.2016. Adding further he would submit that when Mr.R.Purushothaman was not even signatory to the representation, dated 23.04.2016, that was not brought to the notice of this Court on

12.05.2016 when W.P.No.17875 of 2016 was disposed of as not maintainable.

9. When the said representation, dated 23.04.2016 was not made by Mr.R.Purushothaman, he ought not to have come to this Court seeking writ of mandamus to dispose of the said representation, dated 23.04.2016. In any event this has not been questioned by the fifth respondent. However, keeping in mind that there cannot be any difference of opinion between two enquiry officers, namely Mrs.C.Yasodha, Co-operative Sub-Registrar, who was already appointed as Enquiry Officer to go into the allegations relating to the representation, dated 23.04.2016 pending in the Kumbakonam Town Co-operative House Building Society Limited (Z-127), the Registrar of Co-operative Societies (Housing) has directed Mrs.C.Yasodha, Co-operative Sub-Registrar to conduct an enquiry along with the representation, dated 23.04.2016. However, it is not too late if this Court gives permission to the Registrar of Co-operative Societies (Housing) to hold an enquiry as ordered by this Court on 12.05.2016 in W.P.No.17875 of 2016.

10. As there was an apprehension that if the direction given in W.P.No.17875 of 2016, dated 12.05.2016 was strictly followed directing the Registrar of Co-operative Societies, Tamil Nadu Housing Board Complex,

Nandanam, Chennai to conduct an enquiry independently, that would overlap with the enquiry which was already on the pipeline initiated by Mrs.C.Yasodha, Co-operative Sub-Registrar, it was submitted that when an enquiry was already ordered to be conducted by Mrs.C.Yasodha, Co-operative Sub-Registrar on the same allegation resulting both wastage of time and overlapping and that this was not properly brought to the notice of this Court on 12.05.2016, this Court is not able to find fault with the order passed by the Registrar of Co-operative Societies (Housing), dated 03.06.2016.

11. With these observations, both the Contempt Petition and Review Application are closed. No costs.

SD/-
JOINT REGISTRAR (OS) I/C

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER (O.S.)

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SS/CO/08/05/2017

To

1. The Principal Secretary to Government
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.

2. Mr. K. M. Velliangiri,
The Registrar of Co-operative Societies,
(Housing), Tamil Nadu Housing Board Complex,
Nandanam, Anna Salai,
Chennai - 600 035.
3. The Regional Deputy Registrar of Co-operative Societies
(Housing),
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5. The President
Kumbakonam Town Cooperative House
Building Society Ltd., Z-127,
No.78, Bakthapuri Street, Kumbakonam,
Tanjore District.
6. Mrs. C. Yasodha,
The Enquiry Officer
Kumbakonam Town Cooperative House
Building Society Ltd., Z-127,
O/o. Regional Deputy Registrar of Cooperative
Societies (Housing),
No.13/107, Ramalinga Adigalar Arakkattalai Building,
Daniel Thomas Nagar,
Tanjore - 7.

one cc to the Mr. C. Prakasam, Advocate, Sr. No. 15373.
one cc to the M/s. M. S. Palani Swamy, Sr. No. 7580.