

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.12575 of 2017

P.Perumal

..Petitioner

Vs.

1. The Deputy Registrar of
Cooperative Societies,
Tindivanam Circle,
Villupuram District.

2. The Cooperative Sub Registrar /
Field Officer,
O/o Deputy Registrar of
Cooperative Societies,
Tindivanam Circle, Jayapuram Colony,
Tindivanam, Villupuram 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 entire records relating to the impugned order passed by the second respondent in his proceedings No.Nil, dated 03.05.2017 and quash the same.

For Petitioner :Mr.C.Prakasam

For Respondents:Mr.V.Selvaraj,
Additional Government Pleader.

ORDER:

The petitioner has filed this Writ Petition to issue a Writ of Certiorari calling for the entire records relating to the impugned order passed by the second respondent in his proceedings No.Nil, dated 03.05.2017 and quash the same.

2. The learned counsel for the petitioner would submit that the petitioner was elected as President of the Puthanandhal Primary Agricultural Cooperative Credit Society, Puthanandhal, Vellimedupettai, Tindivanam Taluk, Villupuram District in the

year 2013. Out of 10 Directors of the Board (total strength 11 Directors, but one Director already expired) four Directors insisted the petitioner to issue loan to the ineligible members and as the petitioner refused to do the same, the 6 Directors made representation before the first respondent on 15.03.2017 for bringing no confidence motion. In this connection, the first respondent called upon the petitioner to submit explanation. The petitioner submitted his explanation for the allegations made by the 6 Directors and also submitted that out of six, two Directors' signatures were forged, but, without considering his explanation, the first respondent appointed the second respondent to convene special meeting for passing the resolution. Pursuant to the same, the second respondent issued notice on 03.05.2017 to the Directors including the petitioner for participating in the special meeting to be held on 08.05.2017 for passing no confidence motion. The learned counsel for the petitioner has made submission that, as per Rule 62 (3) of the Tamil Nadu Cooperative Societies Act, the special meeting should be convened within 30 days from the date of receipt of the requisition made by 2/3rd majority of the Directors. Though the first respondent received the requisition letter dated 15.03.2017 on 23.03.2017, the second respondent convened the meeting only on 08.05.2017. Moreover, the second respondent convened the meeting and passed the resolution in the absence of the petitioner and other supporting Directors. Hence, the petitioner has filed this Writ Petition before this Court.

3. The Additional Government Pleader would submit that the first respondent has filed the counter affidavit stating that the representation was received by the first respondent office on 23.03.2017. Immediately, the first respondent called upon the petitioner to submit explanation on the above mentioned representation dated 23.03.2017. The petitioner submitted his explanation on 31.03.2017 and the same was considered. It was found that the representation dated 15.03.2017 requesting to bring no confidence motion against the petitioner was not given and signed by 2/3 rd of the Directors. Hence the representation dated 15.03.2017 was rejected as per Rule 62 of the Tamil Nadu Cooperative Societies Rules 1988. Therefore, No Confidence Motion was not conducted against the petitioner as stated in the affidavit filed by the petitioner. Subsequently, seven directors of the society made a representation to the first respondent on 27.04.2017, and on the basis of the said representation, notice dated 28.04.2017 was issued to the petitioner. Since, there was no reply from the petitioner, the first respondent authorised the second respondent to convene a special meeting by the Board of Directors to consider the representation as per Section 62 (4) of the Tamil Nadu Cooperative Societies Rules 1988. Following the rules, on 03.05.2017, a notice was issued to the Directors about the convening of meeting and the same was conducted on 08.05.2017.

No confidence resolution was passed against the President in the presence of 6 Directors in which all the 6 Directors voted in favour of the resolution. Therefore, there is no illegality in the quorum by passing aforesaid resolution. The Additional Government Pleader would submit that the No confidence motion was conducted only complying with Section 62 (4) of the Tamil Nadu Cooperative Societies Rules 1988 and hence the Writ petition is liable to be rejected.

4. Heard learned counsel for the petitioner as well as the Additional Government Pleader for the respondent and perused the materials.

5. It is seen from the above fact, the dispute in the present writ petition relates to the quorum which passed the resolution to remove the petitioner / president of the Board of the second respondent society. The contention made by the petitioner relates to the representation dated 15.03.2017, but the said representation was considered and rejected by the first respondent as per the Rules. Now, as contended by the Additional Government Pleader, a fresh representation was made on 27.04.2017 by 7 Directors of the Society and in the light of the Rule 62 (4) of the Tamil Nadu Cooperative Societies Rules 1988, a meeting for bringing no confidence motion was conducted, after issuing notice to the petitioner and no reply was received from the petitioner. The petitioner has disputed the above said facts. These factual disputes cannot be decided in the Writ Petition filed under Article 226 of the Constitution of India. As rightly pointed by the Additional Government Pleader, if the petitioner is aggrieved by any decision of the first respondent, the petitioner has to opt for the alternative statutory remedy to file a revision under Section 153 of the Tamil Nadu Cooperative Societies Act 1983.

6. Therefore, the writ petition is dismissed as not maintainable. However, it is open to the petitioner to approach the revisional authority, if he is so advised, within two weeks from the date of receipt of a copy of this Order. No Costs, Consequently connected Miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1. The Deputy Registrar of
Cooperative Societies,
Tindivanam Circle,
Villupuram District.
2. The Cooperative Sub Registrar /
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O/o Deputy Registrar of
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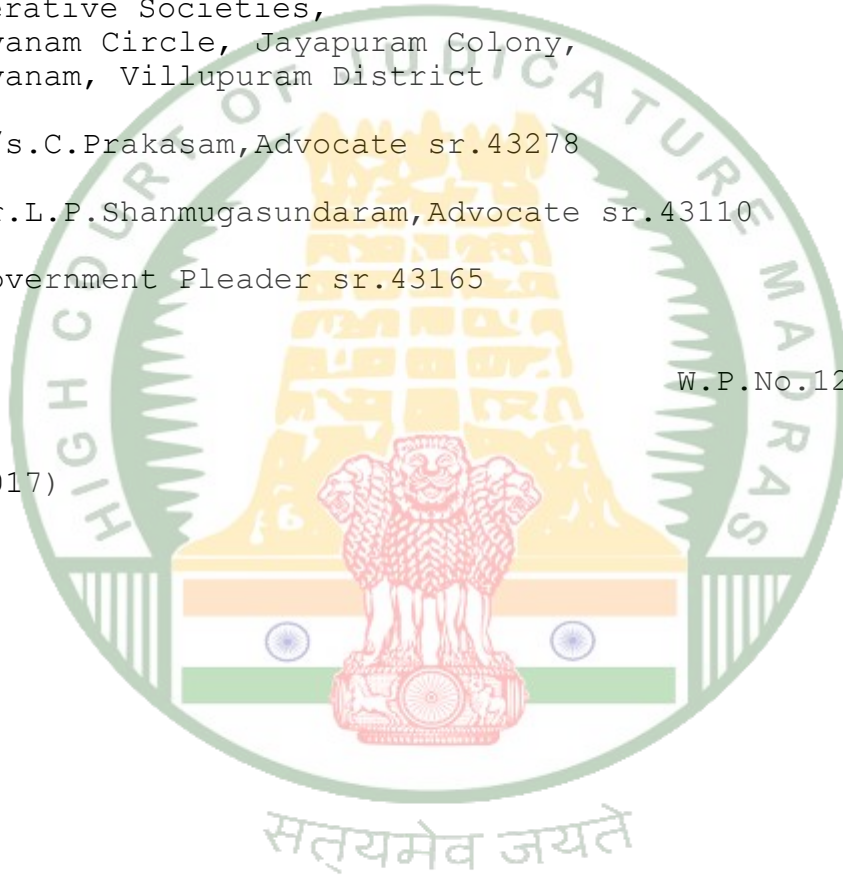
+1cc to M/s.C.Prakasam,Advocate sr.43278

+1cc to Mr.L.P.Shanmugasundaram,Advocate sr.43110

+1cc to Government Pleader sr.43165

W.P.No.12575 of 2017

nr(co)
ss(23/6/2017)



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