

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 16332 of 2016
and
W.M.P Nos.14135/2016 and 2890/2017

S. Karthikeyan

..Petitioner

Vs.

1. The Secretary to Government
of Tamil Nadu, Housing &
Urban Development Department
Fort St. George
Chennai - 600 009.
2. The Inspector General of Registration
100, Santhome High Road
Pattinapakkam
Chennai - 600 027.
3. The District Registrar Office
Chennai (North)
Corporation Thirumanakoodam
1st Floor, 1st Gopalsamy Street
Ambattur, Chennai- 600 053.
4. The Sub Registrar
O/o. Sub Registrar
44/5, Vallalar Street
Bye Pass Road, Redhills,
Chennai - 600 052.
5. The Registrar of Cooperative Societies
(Housing), Tamil Nadu Housing Board
Complex, Nandanam,
Chennai - 600 035.
6. The President
Videsh Sanchar Nigam Employees
House Site Society Ltd.,
No.4, Swami Sivanantha Salai
Chennai - 600 002.

7. V. Joseph Manoharan
President
Videsh Sanchar Nigam Employees
House Site Society Ltd.,
No.4, Swami Sivanantha Salai
Chennai - 600 002.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents 1 to 5 from permitting the 6th and 7th respondents to sell the 6th respondent society lands through 7th respondent and members of the 6th respondent society and to pass further orders.

For Petitioner : Mr. C. Prakasam
For Respondents : Mrs. T. Girija,
Govt. Advocate (Co-op) for R1 & R2

Mr. V. Selvaraj
Addl. Govt. Pleader for R3 to R5

Mr. A.R.L. Sundaresan,
Senior Counsel for
M/s. Karan & Uday for R6 & R7

O R D E R

The petitioner has filed the present writ petition, seeking to forbear the respondents 1 to 5 from permitting the 6th and 7th respondents, to sell the 6th respondent society lands, through 7th respondent and the members of the 6th respondent society.

2. Learned counsel for the petitioner would submit that the petitioner is a social activist and a fellowship member in the Institute of Cost Accounts of India. He is also a Publisher and Editor of a fortnight magazine called "Gnayiru". The petitioner had made a complaint to the 5th respondent regarding the corrupt practice adopted by the 7th respondent and the financial irregularities in the 6th respondent society. He continuously gathered information and filed series of writ petitions against the irregularities committed in the 6th respondent society and the Government property, by the 7th respondent and others. It is further stated that the 7th respondent has also filed criminal defamation case in C.C No.163 of 2013 before the XIV Metropolitan Magistrate Court and a civil defamation case in C.S No.49 of 2011, for compensation, against the petitioner for Rs.30,00,000/- before this Court. The said cases are also pending. The petitioner has collected the

materials under the RTI Act, regarding the irregularities committed by the 6th respondent society. On that basis, the present writ petition has been filed, for the aforesaid prayer.

3. Learned counsel for 6th & 7th respondents submitted that the petitioner has preferred a petition before this Court in W.P. No.26179 of 2015 seeking for a Writ of Mandamus, to direct the Central Bureau of Investigation to register a case under the Prevention of Corruption Act, 1988 against the Tata Communications Ltd. & Videsh Sanchar Nigam and others, in connection with transfer of land and allotment of 32.5 acres of land, to the society. The Hon'ble Division Bench of this Court, consisting of Hon'ble Chief Justice and Hon'ble Justice T.S.Sivagnanam, after considering the contentions made by the petitioner, dismissed the writ petition holding that the said writ petition cannot be entertained under Article 226 of the Constitution of India, in the form of a Public Interest Litigation. Paragraphs 5, 6 & 7 of the order reads as follows :-

" 5. In the petition, there is no mention about the wife of the petitioner, which would, in normal circumstances be logical, as the petition has been filed by the petitioner. However, from a reading of the typed set of documents, it transpires that the wife of the petitioner was employed with the VSNL and thereafter, on privatisation, with Tata Communication Limited as Senior Assistant for 15 years. On our query, it is stated that she is no more in service and was dismissed from service. The residential address shows that it is the property in question which still continues to be occupied by her and the petitioner. The wife was also a member of the fourth respondent society.

6. On our further probing, the learned counsel for the petitioner produces before us the copy of an order passed in a criminal revision petition filed by the wife of the petitioner being CrI.R.C. No. 423 of 2014 dated 04.07.2014 relating to the dissatisfaction in the working of respondent No.4, which had resulted in criminal proceedings being initiated.

7. On perusal of the records, it is apparent to us that all that is being done by the present petition is to give a wider compass to what is really a dispute between the wife of the petitioner and the working of the society/respondent no.4. We do not find the present exercise a bonafide one and are not inclined to exercise jurisdiction under Article 226 of the

Constitution of India in the form of a public interest litigation. '

4. He further submitted that again the petitioner has filed the present writ petition before this Court for the aforesaid prayer. In the affidavit filed in support of the petition, the petitioner has stated that he is a social activist and a fellowship member in the Institute of Cost Accounts of India and he is also a Publisher and Editor of a fortnight magazine called "Gnayiru". So he made complaints to the 5th respondent against the corrupt practice adopted by the 7th respondent. The petitioner is also aggrieved with the financial irregularities in the 6th respondent society. But, the petitioner has not placed any material before this Court. If at all the petitioner is aggrieved, he has to approach the appropriate forum.

5. Learned Senior counsel appearing for the respondents 6 and 7, further submitted before this Court that the petitioner's wife Komalavalli had made a complaint to the authorities concerned to take action on the alleged irregularities committed in the 6th respondent society. On the basis of the said complaint, the competent authority as per the Co-operative Societies Act being the Registrar, has directed the Deputy Registrar to conduct the enquiry. Now, the enquiry has been concluded and the report has been submitted. Therefore, the allegations are unfounded and the petitioner has no locus standi to file the present writ petition, before this Court.

6. Learned Additional Government Pleader representing respondents 3 to 5 submitted that the petitioner's wife was a member of the Society, since she has been removed from the membership, the petitioner's wife and the petitioner have made several false complaints to the authorities and also before this Court. Hence, the 7th respondent filed a defamation suit against the petitioner and his wife. As a counter claim the present allegation has been made against the 7th respondent, by the petitioner.

7. Heard the submission made the learned counsel for the parties and perused the material available on record.

8. The learned counsel for the petitioner would submit that the petition filed in W.P. No.26179 of 2015 before this Court, in Public Interest Litigation, under Article 227 of the Constitution of India, has been dismissed by this Court, for the reason that the Writ Petition filed in the form of a Public Interest Litigation cannot be entertained. Therefore, the petitioner has filed the present writ petition before this Court to take action for the alleged complaints in the 6th respondent

Society, by the 7th respondent. Hence, the petitioner has locus standi to file the present writ petition and the same is maintainable. Eventhough, as submitted by the petitioner he has got locus standi to file this writ petition, the petitioner has not satisfied this Court, as to how he is aggrieved by the activities of the respondents 6 and 7. It is an admitted fact that the petitioner's wife Mrs. Komalavalli, has made a complaint against the 6th and 7th respondent, to the Registrar of Co-operative Societies. On the basis of the complaint, the Registrar directed the Deputy Registrar to conduct enquiry. As per the provisions under Section 90 of the Co-operative Societies Act, the Deputy Registrar conducted the enquiry and submitted his report before the Registrar. Section 90 of the Tamil Nadu Co-operative Societies Act, reads as follows :-

'90. Disputes: - (1) If any dispute touching the constitution of the board or the management or the business of a registered society (other than a dispute regarding disciplinary action taken by the competent authority constituted under sub-section (3) of section 75 or the Registrar or the society or its board against a paid servant of the society) arises-

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its board or any officer, agent or servant of the society, or

(c) between the society or its board and any past board, any officer, agent or servant, or any past officer, past, agent or past servant, or the nominee, heirs or legal representatives of any deceased officer, deceased agent, or deceased servant of the society, or

(d) between the society and any other registered society, such dispute shall be referred to the Registrar for decision.

The petitioner is also not a member of the 6th respondent society to raise any allegation against the 6th respondent society and the 7th respondent. As per the above said Act, if any person being aggrieved, they can approach the Registrar, to make their grievance. Further, the petitioner filed the Writ Petition in W.P. No. 26179 of 2015 before this Court, under the guise of Public Interest Litigation and the same is dismissed. Hence,

the petitioner has no locus standi to file the present writ petition and so the same is not maintainable.

9. Therefore, I am not inclined to entertain this writ petition and dismiss the same as not maintainable. Consequently, the connected Miscellaneous Petitions are closed. No order as to costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

avr

To

1. The Secretary to Government
of Tamil Nadu, Housing &
Urban Development Department
Fort St. George
Chennai - 600 009.
2. The Inspector General of Registration
100, Santhome High Road
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Chennai - 600 027.
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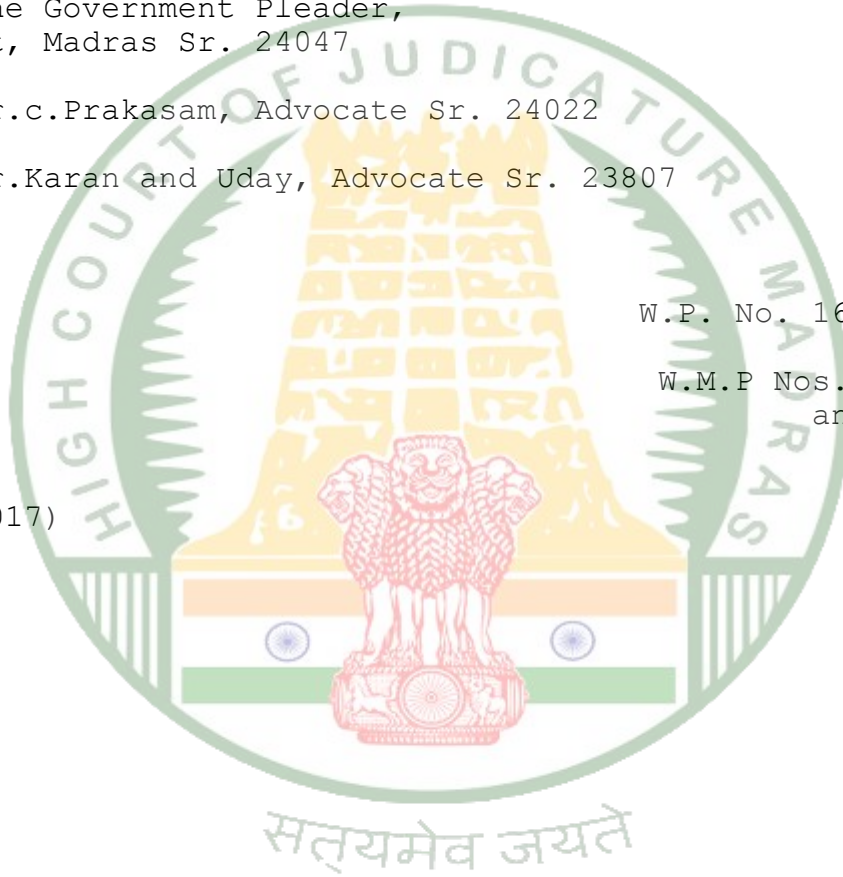
+1cc to the Government Pleader,
High Court, Madras Sr. 24047

+1cc to Mr.c.Prakasam, Advocate Sr. 24022

+1cc to Mr.Karan and Uday, Advocate Sr. 23807

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CA (CO)
VR(19/5/2017)



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