

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.04.2017

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P. No.35100 of 2014
and MP.1 & 2 of 2014

1. S.Kuthuci Gurusamy,
The President,
Tamil Nadu Housing Board
Employees Co-operative Society,
No.493 Anna Salai,
Nandanam,
Chennai 600 035

2. Jayaseeli
The Vice President,
Tamil Nadu Housing Board
Employees Co-operative Society,
No.493, Anna Salai, Nandanam,
Chennai 600 035. Petitioners

Vs

1. The Registrar of
Co-operative Societies
Kilpauk,
Chennai 600 010.

2. The Deputy Registrar (Credit)
Kuralagam,
Chennai 600 108. Respondents

Prayer: Writ 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 impugned proceedings issued by the 2nd respondent in Na.Ka.No.3801/14/sa.pa-1 dated 29.09.2014, and to quash the same.

For Petitioners: Mr. G.Sankaran

For Respondents: Mrs.T.Girija, Government Advocate

ORDER

The prayer in the writ petition is to issue a writ of Certiorari to call for the records relating to the impugned proceedings issued by the 2nd respondent in Na.Ka.No.3801/14/sa.pa-1 dated 29.09.2014, and to quash the same.

2. Challenging the order passed by the second respondent in proceedings Na.Ka.3168/2013/pa.sa.1(2) dated 31.12.2013, and in Na.Ka.No.3168/2013/pa.sa.1(1) dated 21.03.2014, the appeal papers were presented on 06.04.2014 and the said appeal is pending before the first respondent. In the meantime, the second respondent had issued the present show cause notice under Section 87(1) of the Tamil Nadu Cooperative Societies Act for the recovery of the amount. Hence the petitioner prayed to quash the impugned proceedings notice issued by the second respondent in R.C.No.3801/14/SF1, dated 29.09.2014.

3. Per contra, the learned Government Advocate appearing for the respondents submitted that on perusal of the appeal paper dated 06.04.2014, the petitioner has submitted only a representation and the same is not in the proper format before the authority concerned under Section 152 of the Tamil Nadu Cooperative Societies Act. Therefore the present relief as prayed in the present writ petition cannot be granted and the same is liable to be rejected.

4. In reply, the learned counsel for the petitioner submitted that the appeal dated 06.04.2014 was presented before the first respondent under Section 152 of the Tamil Nadu Cooperative Societies Act and pending the same, the impugned notice to recover the loss sustained by the society under Section 87(1) of the Tamil Nadu Cooperative Act 1983 is unsustainable in law.

5. However, the learned Government Advocate for the respondent further submitted that on perusal of the aforesaid appeal paper dated 06.04.2014, the petitioner has not submitted the said appeal in the proper format. Therefore it cannot be construed as an appeal filed under Section 152 of the Tamil Nadu Cooperative Societies Act. It is also brought to the notice of this Court that in view of the pendency of the writ petition, no order has been passed by the first respondent either to entertain the appeal or to return the papers, if it is not in the proper format.

6. Therefore in the interest of the justice, I am inclined to pass the following orders:-

1. The first respondent is directed to consider the appeal paper submitted by the petitioner dated 06.04.2014 on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

2. In any event if the said appeal petition is not in proper format, an opportunity shall be granted to the petitioner to re-present the said appeal papers in the proper format and the same shall be entertained by the first respondent within the time frame.

3. In the mean time, the impugned notice issued by the second respondent shall be kept in abeyance till final order is passed in the aforesaid appeal filed by the petitioner.

7. Accordingly writ petition is allowed. No costs. Connected miscellaneous petition is also closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Registrar of Co-operative Societies
Kilpauk, Chennai 600 010.

2. The Deputy Registrar (Credit)
Kuralagam, Chennai 600 108.

+ 1 cc to Mr.G. Sankaran, Advocate sR.22024
+ 1 cc to Government Pleader Sr.22693

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PVS (CO)
Eu 5.5.17

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