

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2017

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.16334 of 2014
and M.P.Nos.2 and 4 of 2014

1.Chinnammal
2.S.Shobana

.. Petitioners

Vs.

1.The Deputy Registrar of Co-op Societies
Tiruvallur Circle, Tiruvallur
Tiruvallur District.

2.The President
JJ-220, Kondancherry Primary Agricultural
Co-op Credit Society Ltd.
Kondancherry
Tiruvallur Taluk & District.

.. Respondents

[R2 impleaded as per order of this Court dated 08.07.2015]

Writ Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the entire records relating to the impugned order passed by the respondent in his proceedings Tha.Thee.2/2012/A-1, dated 10.04.2013 and quash the same insofar as the petitioners are concerned.

For petitioners : Mr.C. Prakasam

For respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader

O R D E R

This writ petition has been filed seeking a writ of certiorari calling for the entire records relating to the impugned order passed by the first respondent in his proceedings Tha.Thee.2/2012/A-1 dated 10.04.2013 and quash the same as far as the petitioners are concerned.

2. According to the petitioners, when the first petitioner's husband/2nd petitioner's father Munirathinam was working as Secretary in the second respondent-Society during the period between 01.04.1992 and 31.03.1996, proceedings under Section 81

of the Tamil Nadu Co-operative Societies Act, 1983 (for brevity "the Act") was initiated by the first respondent and an enquiry was ordered vide enquiry notice dated 23.03.1999. Accordingly, an enquiry was conducted and on the basis of the enquiry report, surcharge proceedings were initiated under Section 87 of the Act.

3. In the meanwhile, challenging the said Section 81 notice, Munirathinam filed a writ petition in W.P. No.5436 of 1999 and this Court, vide order dated 18.03.2003, disposed of the said writ petition by directing the petitioner to raise the question of limitation as an objection before the third respondent therein, viz., the Enquiry Officer. Thereafter, the Government issued G.O.Ms.(D)No.262, Cooperation, Food and Consumer Protection Department dated 18.07.2011, exempting the period of limitation provided under Section 87 of the Act. Accordingly, the first respondent initiated surcharge proceedings against Munirathinam and passed orders in the said proceedings on 10.04.2003, challenging which, the petitioners have preferred the present writ petition, since Munirathinam died on 22.06.2009.

4. The learned Special Government Pleader would submit that as against the order impugned herein, the petitioners have an efficacious alternative remedy of filing an appeal before the District Court/Co-operative Tribunal under Section 152 of the Act and without exhausting the said remedy, they have approached this Court and on this ground itself, this writ petition is not maintainable.

5. As rightly contended by the learned Special Government Pleader, no prima facie case is made out by the petitioners to entertain the present writ petition, when there is an efficacious alternative remedy available for them before the District Court/Co-operative Tribunal as contemplated under the Act. Further, it is trite that a writ petition under Article 226 of the Constitution of India cannot be entertained without the alternative remedy being exhausted. In such view of the matter, this writ petition is liable to be dismissed.

6. At this stage, the learned counsel for the petitioners would submit that there is a delay in filing the appeal challenging the order passed by the first respondent.

7. The learned Special Government Pleader would submit that if necessary application is filed before the Tribunal along with the appeal, the first respondent may not have serious objection for condoning the delay in filing the appeal, since the issue has been pending before this Court for the last two years.

8. In view of the above, this writ petition is dismissed as not maintainable. However, the petitioners are at liberty to

file an appeal, if so advised, with an application for condonation of delay, within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Deputy Registrar of Co-op Societies
Tiruvallur Circle, Tiruvallur
Tiruvallur District.

2.The President
JJ-220, Kondancherry Primary Agricultural
Co-op Credit Society Ltd.
Kondancherry
Tiruvallur Taluk & District.

+1cc to M/S. L.P. Shanmuga Sundaram, ADvocate Sr.15033

W.P.No.16334 of 2014

SK(CO)
VR(24/03/2017)

सत्यमेव जयते

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