

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.07.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.18537 of 2017
and
W.M.P.No.20101 of 2017

C.Udayakumar ... Petitioner
Vs.

1. The Deputy Registrar of Co-operative Societies,
Hosur Circle, Hosur,
Krishnagiri District.

2. K.K.127, Hosur Primary Agricultural Co-operative
Credit Society Ltd.,
Represented by its President,
Hosur, Krishnagiri District.

3. C.Subramanian,
The then Deputy Registrar of Co-operative Societies,
Hosur Circle, Krishnagiri District. ... Respondents

Prayer : Writ Petitions filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records pertaining to the order passed by the 1st
respondent in Surcharge No.2/2015 Sa.Pa. Judgment dated
09.08.2016 quash the same.

For Petitioner : Mr.Balan Haridas

For Respondents 1 & 3 : Mr.V.Selvaraj
Additional Government Pleader

For 2nd Respondent : Mr.M.S.Palaniswamy

O R D E R

According to the petitioner, the enquiry was initiated by
the respondent against the petitioner under Section 87 of the
Tamil Nadu Co-operative Societies Act.

2. On receipt of the said notice, the petitioner before this Court in W.P.No.30220 of 2015 dated 25.09.2015. This Court has directed the respondent to permit the petitioner to peruse the document. The relevant paragraph of the order reads as follows:-

'5. This Court, upon hearing the rival submissions of both sides and in the light of the facts and circumstances of the case and without going into the merits of the same, directs the first respondent to permit the petitioner to peruse the documents referred to in the surcharge proceedings and take notes/copies of the same or the first respondent himself can furnish documents referred to in the representation of the petitioner dated 03.09.2015 within a period of six weeks from the date of receipt of a copy of this order. Till then, the respondent shall defer further decision in terms of surcharge notice dated 17.08.2015.'

3. Thereafter, the petitioner also made a representation to the 1st respondent to furnish copy of the said documents as directed by the High Court in the said report. In spite of that without furnishing the copy of the documents, the respondent has passed the surcharge order under Section 87 of the Tamil Nadu Co-operative Societies Act. Challenging the said order, the petitioner has filed this writ petition before this Court.

4. On instructions, the learned Additional Government Pleader would submit that the enquiry report has not been furnished to the petitioner. In support of his contention, the learned Government pleader also placed the letter in tha.thee.No.2/2015 sa.pa. Dated 26.07.2017.

5. Mr.M.S.Palanisamy, learned counsel appearing for the 2nd respondent society submitted that the 1st respondent has to provide an opportunity to the petitioner before the 1st respondent.

6. In the light of the decision of this Court reported in 2017 (1) CTC 258 in the case of C.Kamaraj (in W.P.No.7648 of 2015), S.Saravanan (in W.P.Nos.16617 & 31309 of 2015) Vs. The Registrar of Co-operative Societies, 170 E.V.R.Periyar High Road, Kilpauk, Chennai and others has set aside the impugned order, on the ground that the petitioner was not furnished with the copies of the documents.

7. In the light of the above cited decision of this Court, this Court is inclined to interfere and set aside the order passed by the 1st respondent and the matter is remanded back to the 1st respondent to consider the surcharge proceedings afresh and proceed with the enquiry after furnishing the copy of the

documents, as requested by the petitioner and pass appropriate orders on merits, in accordance with law, as expeditiously as possible.

8. With the above directions, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ssn

To

1. The Deputy Registrar of Co-operative Societies,
Hosur Circle, Hosur,
Krishnagiri District.

+1cc to Mr.Balan, Advocate, S.R.No.53412
+1cc to Mr.Palani Samy, Advocate, S.R.No.53425
+1cc to the Government Pleader, S.R.No.53485

W.P.No.18537 of 2017
and W.M.P.No.20101 of 2017

MG (CO)
GN(29/08/2017)

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