

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2017

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.33579 of 2013

R.Karuppusamy

... Petitioner

Vs

1.The Joint Registrar of Co-operative Societies,
Coimbatore Region,
Coimbatore,
Coimbatore District.

2.The Special Officer,
Senjeri Malaiyadi Palayam Farmers Service,
Co-op.Society, Malaiyadi Palayam,
Sulthanpet Via.,
Sulur Taluk, Coimbatore District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.7908/2013/Vae.2, dated 29.11.2013 and quash the same and consequently direct the 1st respondent to entertain the Statutory Revision and dispose the same on merits.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader
(Co-operative Societies)

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O R D E R

The relief sought for in this writ petition is to call for the records in relation to the impugned order passed by the first respondent in proceedings dated 29.11.2013 and quash the same and direct the first respondent to entertain the Statutory Revision petition filed by the writ petitioner and dispose of the same on merits.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was working as Assistant Secretary in the second respondent Co-operative Society. In respect of certain allegations against the writ petitioner an order of attachment on the immovable property belongs to the petitioner, was passed by the Deputy Registrar, Co-operative Society, Pollachi.

3.The grievances of the writ petitioner is that without initiating any surcharge proceedings the order of attachment was issued. However, it is for the authorities to pass appropriate orders under the provisions of the Tamil Nadu Co-operative Societies Act. Subsequently, the writ petitioner was terminated from service on 21.5.2007, challenging the order of termination, the writ petitioner preferred a revision petition before the first respondent on 18.11.2013. However, the revision petition filed by the writ petitioner was rejected on the ground that the same was filed after a lapse of six years from the date of the order of termination.

4. In fact the revision petition was rejected by the first respondent on the ground of delay in filing the revision petition. Now, the learned counsel appearing for the writ petitioner states that the delay caused in this regard is neither willful nor wanton. In fact the writ petitioner filed O.S.No.450 of 2008 for declaration to declare the order of termination dated 21.5.2007 is null and void and the suit was dismissed on 02.08.2016. Due to the pendency of the suit from 2008 to 2016, the writ petitioner was unable to file any Revision Petition under Section 153 of the Tamil Nadu Co-operative Societies Act (hereinafter, referred to as 'Act') before the first respondent. However, the suit was dismissed for default and thereafter, the writ petitioner was advised to file a Revision Petition under the Act, which would be the proper course of action to be initiated against the order of termination. On legal advise the writ petitioner has moved this Revision Petition before the first respondent under the Act. Thus, the delay caused is on genuine grounds and the writ petitioner has not committed an Act of delay willfully or wantonly.

5. This Court is of the view that an order of termination is a major penalty imposed on the writ petitioner and the remedy of revision under Section 153 is an effective remedy provided under the Act. Thus, an opportunity of revision is an important remedy in respect of the punishment of termination is concerned. This apart, the writ petitioner will get an opportunity to adjudicate the issues on merits before the Revisional authorities.

6. Under these circumstances, this Court is of the view that the first respondent has to adjudicate the matter on merits in respect of the order of termination issued by the second respondent in proceedings dated 21.5.2007. Accordingly, the impugned order passed by the first respondent in proceedings Na.Ka.7908/2013/Vae.2, dated 29.11.2013 is quashed and the first respondent is directed to reopen the revision petition filed by the writ petitioner dated 18.11.2013 and conduct an enquiry in accordance with Act by providing an opportunity to all the parties concerned and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

7. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Joint Registrar of Co-operative Societies,
Coimbatore Region,
Coimbatore,
Coimbatore District.

2.The Special Officer,
Senjeri Malaiyadi Palayam Farmers Service,
Co-op.Society, Malaiyadi Palayam,
Sulthanpet Via.,
Sulur Taluk, Coimbatore District.

+1 cc to Mr.C.Prakasam Advocate sr 80838

+1 cc to Mr.L.P.Shanmugasundaram Advocate sr 81102

+1 cc to the Govt Pleader sr 80938

W.P.No.33579 of 2013

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