

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.27386 of 2016

and

W.M.P Nos. 23589 & 23590 of 2016

S. Selvam

..Petitioner

Vs.

1. The President
Tamil Nadu Secretariat
Housing Society
No.67, Secretariat Colony
Okkiyam Thoraipakkam
Chennai - 600 097.

2. The Deputy Registrar of Co-operative Societies,
No.18, Ramanathan Street
T. Nagar, Chennai - 600 017. ..Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the 1st respondent issued in No.10/2014 dated 12.05.2016 and quash the same and consequently direct the 1st respondent to issue the sale deed documents to the petitioner within a reasonable period as fixed by this Court and pass further orders.

For Petitioner : Mr. T. Ranganathan

For Respondents : Ms. T. Girija,
Govt. Advocate for R2
No Appearance for R1

ORDER

This Writ Petition is filed seeking to quash the proceedings of the 1st respondent issued in No.10/2014 dated 12.05.2016 and consequently direct the 1st respondent to issue the sale deed documents to the petitioner within a reasonable period fixed by this Court.

2. The learned counsel for the petitioner submitted that the petitioner was appointed as a Typist in the Tamil Nadu Secretariat Service in the year 1993 and was promoted as a Section Officer on 30.06.2016 in Energy Department. While the petitioner was working as an Assistant Section Officer, the petitioner was served with a charge memo dated 25.06.2009. Denying the said charges, the petitioner submitted his defence statement on 15.08.2009. However, an enquiry was conducted and the enquiry officer held the charges against the petitioner as not proved. But, the Deputy Secretary to Government finalised the proceedings, imposing the penalty of 'Censure' by his order dated 20.03.2013. Based on the said orders, the 1st respondent issued the impugned orders dated 12.05.2016 in Proceedings No.10/14, cancelling the allotment of a residential plot allotted to the petitioner, although full cost of the plot has been paid by the petitioner on 09.06.2006. According to the petitioner, the 1st respondent is not competent to cancel his own order of allotment, after a period of 10 years. Although it is stated by the 1st respondent that notice has been sent to the petitioner on 20.09.2014, it has not been served to the petitioner. Challenging the said cancellation order of allotment, the petitioner has filed this writ petition.

3. The learned counsel for the respondents would submit that the present writ petition is not maintainable, in the light of the Full Bench Judgment of this Court in the case of K. MARAPPAN VS. DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, NAMAKKAL reported in 2006 (4) CTC 689. It is further submitted that the petitioner can avail an alternative remedy, under Section 90 of the Co-operative Societies Act, 1983, by filing an appeal before the competent authority, the 2nd respondent, but without availing the same, the petitioner has approached this Court under Article 226 of the Constitution of India, which is not maintainable. Therefore, this writ petition is liable to be dismissed.

4. Considering the above submissions made by the learned counsel for the respondents and the decision cited supra, this court is not inclined to entertain the prayer of the writ petitioner and hence, the writ petition is dismissed as not maintainable. However, liberty is granted to the petitioner to approach the 2nd respondent, under Section 90 of the Act, if so advised, within a period of three weeks from the date of receipt of a copy of this order.

5. Accordingly, the Writ Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

avr

To

1. The President
Tamil Nadu Secretariat Housing Society
No.67, Secretariat Colony
Okkiyam Thoraipakkam
Chennai - 600 097.
 2. The Deputy Registrar of Co-operative Societies,
No.18, Ramanathan Street
T. Nagar, Chennai - 600 017.
- + 1 cc to M/s.T.Ranganathan, Advocate, SR.57332
- + 1 cc to The Govt.Pleader, SR.57913

W.P.No.27386 of 2016
and
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MV (CO)
NR 16/08/2017

सत्यमेव जयते

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