

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.37595 of 2016
and
W.M.P.No.32225 of 2016

P.R. Arumugam

... Petitioner

Vs.

1. The Deputy Registrar of
Cooperative Societies (Housing)
Coimbatore Region
Chinthamani, R.S. Puram
Coimbatore, Coimbatore District.

2. The Manager
Coimbatore District Central
Cooperative Bank
R.S. Puram Branch, Coimbatore - 2.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings No. Na.Ka. 1475/2016/Na.Sa dated 05.10.2016 and quash the same and pass further orders.

For Petitioner : Mr. C. Prakasam

For Respondents : Mr. N. Inbanathan,
Government Advocate (Forest) for R1
Mr. P. Senthilvel,
Government Advocate for R2 & R3

ORDER

This writ petition has been filed seeking to quash the order passed by the 1st respondent in his proceedings No. Na.Ka. 1475/2016/Na.Sa dated 05.10.2016.

2. The learned counsel for the petitioner submitted that the petitioner is the President of the Electricity Employees Cooperative House Construction Society Ltd. Out of 10 plots belonging to the Society, 8 plots were under dispute

regarding pathway and cart track from the year 1974 and 2 plots were encroached by anti-social elements. Hence, the petitioner was unable to dispose of the plots and re-invest in other lands. It is further submitted that a sum of Rs.50 lakhs is lying with the 2nd respondent Bank. Whiles, the 1st respondent/ the Deputy Registrar (Housing), Coimbatore, issued the impugned orders dated 08.06.2017, directing the 2nd respondent to freeze the Bank Account No.2130202695 of the Electricity Board Employees Co-operative Housing Society. The said order has been served on 07.10.2017. The petitioner is challenging the said impugned order before this Court on the ground that the 1st respondent is not vested with any powers, to pass the impugned order, freezing the Bank Account of the Society. Further, no opportunity was granted to the petitioner to put forth his case, before passing the impugned order.

3. Mr. V. Selvaraj, learned Additional Government Pleader would submit that Rule 23 of the Tamil Nadu Co-operative Societies Rules, 1988, deals with the power of the Registrar to freeze credit or any other assistance. In the light of the above provisions, the 1st respondent had passed the said order and so the order impugned herein, passed by the 1st respondent, is in accordance with law.

4. Heard the rival submissions made by the learned counsel for the petitioner and the learned Government Advocates representing the respondents and perused the material available on record.

5. The present writ petition has been filed by the petitioner, challenging the impugned order passed by the 1st respondent without jurisdiction and that there is no power to freeze the account of the petitioner society. Rule 23 of the Tamil Nadu Co-operative Societies, 1988, relied on by the learned Additional Government Pleader reads as follows :

"Rule 23 : Power of the Registrar to freeze credit or any other assistance .-- Where the Registrar is satisfied that any Society has not maintained the accounts, books and records required to be maintained by it under Rule 20 or prevented in any manner the officer deputed or Employee of the Financing Bank or Federal Society authorised by the Registrar under sub-rule (1) of Rule 22 to write up the accounts, books and records, the Registrar may, without prejudice to any other action that may be taken under the Act and these Rules, freeze such credit or other assistance as the Registrar may deem fit;

Provided that no order shall be passed by the Registrar under this Rule without giving an opportunity to the Society to make its representation."

In the light of the aforesaid Rule, the order has been passed by the 1st respondent.

6. On perusal of the impugned order, it is seen that the said order has been passed without following the procedures, as contemplated under the said Rule. The Rule states that no order shall be passed by the Registrar without giving an opportunity to the Society, to make its representation. No material has been placed before this Court to show that opportunity was given to the Society. Therefore, this Court has no hesitation to quash the impugned order, passed by the 1st respondent in his proceedings No. Na.Ka. 1475/2016/Na.Sa dated 05.10.2016.

7. The Writ Petition is allowed, with liberty to the respondents to proceed, in accordance with law. Consequently, the connected M.P is closed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Registrar of
Cooperative Societies (Housing)
Coimbatore Region
Chinthamani, R.S. Puram
Coimbatore, Coimbatore District.

2. The Manager
Coimbatore District Central
Cooperative Bank
R.S. Puram Branch, Coimbatore - 2.

+1cc to M/s.L.P.Shanmugasundaram, Advocate, S.R.No.43355

+1cc to Mr.C.Prakasam, Advocate, S.R.No.43608

+1cc to the Government Pleader, S.R.No.43441

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CS V

CA(04/07/2017)