

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.04.2017

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Writ Petition No.39203 of 2016  
and  
C.M.P.Nos.33575 and 33576 of 2016

G.Mathaiyan

.. Petitioner

/versus/

1.S.994, Kalapanaalli Primary Agrl.Co-op. Credit Society,  
Kuppangarai Post,  
Kariamangalam Taluk, Dharmapuri.

2.Rep.by its President,  
The Deputy Registrar of Co-op. Societies,  
Dharmapuri Collectorate Complex,  
Dharmapuri 5.

.. Respondents

Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the communication Na.Ka.2928/2015/SA Pa 1 dated 30.07.2016 of the 2<sup>nd</sup> respondent to the CCIW Chennai 32, quash the same in so as the petitioner's is concerned.

For Petitioner :Mr.S.Venkataraman

For Respondents:Mrs.T.Girija, GA

O R D E R

The prayer in the writ petition is for issuance of Writ of Certiorari calling for the records relating to the communication Na.Ka.2928/2015/SA Pa 1, dated 30.07.2016 of the 2<sup>nd</sup> respondent to the CCIW, Chennai-32 and quash the same.

2. According to the petitioner, the petitioner was engaged as jewel appraiser by the Society on commission basis. An enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 was conducted against the employees and a report has been submitted to the second respondent dated 09.11.2015 stating that since the Society was lost on various reasons to an extent of Rs.1,58,72,233/- and to recommend to recover the amount with interest. In the mean time, the concerned persons paid a sum of Rs.1,61,66,234/- to the Society being the principal and interest. Based on the enquiry report, surcharge proceeding has been initiated under Section 87 of the

Tamil Nadu Co-operative Societies Act, 1983 against S.Selvakumar, The Secretary and M.Subramani, Assistant Secretary of the Society for recovery of the balance amount of Rs.29,16,226/- after recovering the amount of Rs.1,61,66,234/-. The petitioner's name was not implicated in the surcharge proceedings. The second respondent sent communication on 30.07.2016 to C.C.I.W., Chennai to initiate the prosecution against the petitioner and five others regarding the alleged irregularities by which the society suffered loss. Aggrieved by the communication dated 30.07.2016, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner would submit that the surcharge proceeding initiated against the persons, who are involved the misappropriation, through the communication dated 30.07.2016 is liable to be quashed.

4. The learned Government Advocate would submit that the surcharge proceeding has been initiated against the employee of the Society. But, the Deputy Registrar of the Society has come to an conclusion on the basis of the enquiry report and the same has been forwarded to the Superintendent of the Police, CCIW, Chennai to register the complaint and investigate the same. Hence, the present writ petition filed by the petitioner is not maintainable and the same is liable to be dismissed.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

6. The petitioner has approached this Court challenging the communication dated 30.07.2016 informing that based on the enquiry report the Superintendent of Police, CCIW, Chennai to register the complaint against the persons, who obtained loan from the Society by creating forged and fabricated documents, thereby misappropriated the Society amount.

7. In view of the above, no prima facie case is made out. Therefore, this Court can not interfere with the impugned communication dated 30.07.2016 and the writ petition deserves to be dismissed. Accordingly, the writ petition is dismissed. It is open to the petitioner to work out his remedy before the appropriate Forum. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Asst.Registrar (CS VII )

/true copy/

Sub Asst. Registrar

To

1.The President,  
S.994, Kalapanaalli Primary Agrl.Co-op. Credit Society,  
Kuppangarai Post, Kariamangalam Taluk.

2.The Deputy Registrar of Co-op. Societies,  
Dharmapuri Collectorate Complex, Dharmapuri 5.

+1 cc to Mr.S.Venkataraman,advocate,sr.22289

+1 cc to Govt.Pleader,sr.21729.

vgi(co)  
krd 24/4

W.P.No.39203 of 2016



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