

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.01.2017

Pronounced on : 25.04.2017

Coram:

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.16219 of 2002

S. Arumuga Nainar

... Petitioner

versus

1. Special Officer,
O.357, Vallanadu Primary
Agricultural Bank Ltd.,
Vallanadu 628 252.

2. Deputy Registrar of Co-op. Societies,
Tuticorin

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the 1st respondent Bank dated 30.4.2002 and to quash the same.

Petitioner : Mr. R. Ganesan

Respondent : Kavya Silambannan for R1
for Mrs.Vasudha Thiagarajan
AGP (W) for R2.

ORDER

This Writ Petition is filed challenging notice of retrenchment dated 30.4.2002 issued by the Vallanadu Primary Agricultural Cooperative Bank to the petitioner herein retrenching him along with three others upon payment of due compensation.

2. A counter has been filed by the respondent to the effect that the relief sought does not lie within the domain of this Court in terms of Article 226, but would lie before the appropriate forum under the Industrial Disputes Act.

3. In the course of hearing, a judgment of a Full Bench of this Court in K. Mariappan Vs. District Registrar, Cooperative Societies (2006(4) CTC 689) is brought to my attention. The decision is to the effect that a Cooperative Society carrying on banking business as in the case of the respondent is not a 'State' within the meaning of Article 12 of Constitution amenable to writ petition in terms of Article 226 of Constitution of India. As such, the learned counsel for the respondent would urge, the present Writ Petition is not maintainable.

4. The question posed before the Full Bench was whether a Cooperative Society registered under Tamilnadu Cooperative Societies Act is a private body or falls within the definition of 'State' or 'local' or 'other bodies' under the control of the Government. In the case of a Cooperative Society that may be of the nature of a private body, the Bench held that some examination would be required as to whether the Writ Petition would be maintainable and the extent to which such powers could be exercised. However, in the case of a cooperative society which is clearly not the instrumentality or agency of the State, no such doubt would arise.

5. The conclusion at paragraph 21 of the decision is to the effect that a cooperative society carrying on the business of banking cannot be termed as an instrumentality of the State within the meaning of Article 12 of the Constitution of India.

6. In the light of the aforesaid judgment, the Writ Petition stands dismissed granting liberty to the petitioner to approach the appropriate forum for relief against the impugned notice of retrenchment dated 30.4.2002, if so advised. Representation, if any, filed before the appropriate authority shall be considered by the authority without reference to limitation in view of the pendency of this Writ Petition before the Court from 2002 onwards. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

msr

To

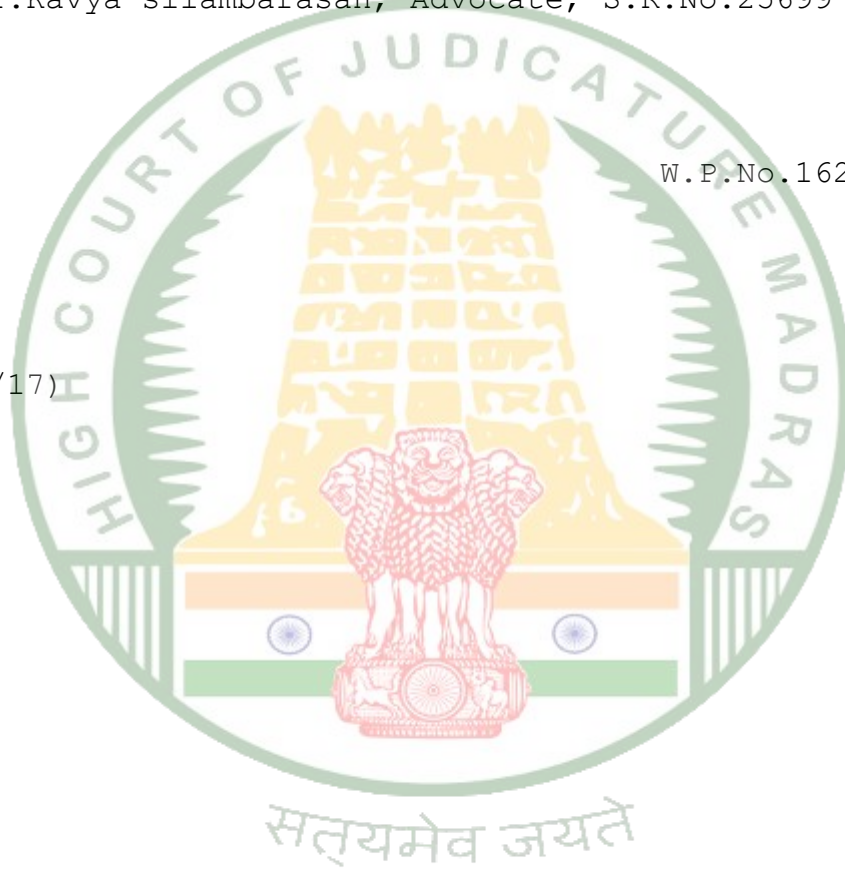
1. Special Officer,
O.357, Vallanadu Primary
Agricultural Bank Ltd.,
Vallanadu 628 252.
2. The Deputy Registrar of Co-op. Societies,
Tuticorin

+lcc to Mr.Kavya silambarasan, Advocate, S.R.No.25699

W.P.No.16219 of 2002

sj (co)

rmp (15/05/17)



WEB COPY