

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.05.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos. 38138 to 38140 of 2003

and WMP.Nos.46303 & 46305 of 2003

W.P.No.38138 of 2003

Tamilnadu Co-Operative Primary
Land Development Bank,
Employees Association, Reg.No.209/TAJ
Rep. by its Joint Secretary,
P.Nanjappan. .. Petitioner

Vs.

1. The Deputy registrar of Co-operative
Societies,
Coimbatore Circle,
Coimbatore.
2. The Co-operative Sub-Registrar (packages),
Avinashi,
O/o The Deputy Registrar of Co-operative.
Societies,
Coimbatore Circle,
Coimbatore. ... Respondents

Prayer in W.P.No.38138 of 2003 W.Ps.: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records of the impugned order passed by 1st respondent in his proceedings No.Na.Ka.10889/98/Ni.Va.Va(1), dated 16.10.2003 and quash the same.

W.P.No.38139 of 2003
Tamilnadu Co-Operative Primary
Land Development Bank,
Employees Association, Reg.No.209/TAJ
Rep. by its Joint Secretary,
P.Nanjappan.

.. Petitioner

vs.

1. The Deputy registrar of Co-operative Societies,
Coimbatore Circle,
Coimbatore.
2. The Extension Officer,
Co-operation,
Panchayat Union,
Periyanaicken Palayam,
Coimbatore District.

.. Respondents

Prayer for W.P.No.38139 of 2003: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records of the impugned order passed by 1st respondent in his proceedings & No.Na.Ka.10889/98/Ni.Va.Va(2), dated 16.10.2003 and quash the same.

W.P.No.38140 of 2004

The Tamilnadu Co-Operative Primary Land Development Bank,
Employees Association,
Reg.No.209/ TAJ
Rep. by its Joint Secretary,
P.Nanjappan.

.. Petitioner

VS

1. The Deputy registrar of Co-operative Societies,
Coimbatore Circle,
Coimbatore.
2. The Co-operative Sub-Registrar (package-2),
O/o The Deputy Registrar of Co-operative Societies,
Coimbatore Circle,
Coimbatore.
3. The Extension Officer,
Co-operation,
Panchayat Union,
Avinashi.

.. Respondents

Prayer for W.P.No.38140 of 2003: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorati, calling for the entire records of the impugned order

passed by 1st respondent in his proceedings No.Na.Ka.8424/98/Ni.Va. dated 24.11.1998 and quash the same.

For Petitioner : Mr.C.Prakasam
For Respondents R1 & R3 : Mr. L.P.Shanmugasundaram
Special Government Pleader

O R D E R

The writ petitioner, Tamilnadu Co-operative Primary Land Development Bank Employees Association, represented by its Joint Secretary, filed these writ petitions, challenging the order of the Deputy registrar of Co-operative Societies, Coimbatore Circle, ordering for an inquiry into the affairs of the Periyanaicken Palayam Co-operative Primary Agricultural and Rural Development Bank, under Section 82 of the Tamilnadu Co-operative Societies Act. Section 82 of the Act contemplates inspection and investigation which is extracted hereunder:

"Inspection and Investigation - (1) The Registrar may, of his own motion or on the application of a creditor of a registered Society inspect or investigate or direct any person authorised by him in this behalf by general or special order in writing to inspect the affairs of the registered Society in general or to investigate into any alleged misappropriation, fraudulent retention of any money or property, breach of trust, corrupt practice or mismanagement in relation to that Society or into any particular aspect of the working of that Society and the Registrar or the person so authorised shall have all the powers of the Registrar when holding an inquiry under Section 81:

Provided that no such inspection or investigation shall be made or directed on the application of a Creditor unless the Creditor-

(a) satisfies the Registrar that the debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection or investigation as the Registrar may require."

2. Inspection and investigation is a preliminary stage through which the Registrar may find out the affairs regarding the administration of a Co-operative Society. Therefore an order

passed for inspection cannot stand under the scrutiny of this Court, more so under the writ jurisdiction. Mere ordering of inspection of documents will not provide any cause of action for the writ petitioner and he cannot said to be aggrieved out of the order.

3. Further the writ petitioner has no right to challenge the direction of the Registrar to conduct inspection and investigation into the affairs of any Co-operative Society. The Act provides provision to inspect the societies for effective administration of Co-operative Societies and the Registrar whenever receives a complaint or opinion about any irregularity or illegality, he can order for inspection or investigation into the affairs of the Society.

4. Thus, actions of the Registrar ordering inspection under Section 82 cannot be challenged by way of writ petition under Article 226 of the Constitution of India and any further action continued after the inspection alone will provide cause for the aggrieved person. Such being the legal position, this Court is not inclined to consider the grounds raised by the writ petitioner and accordingly, the writ petition stands dismissed as not maintainable. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsa/kkd

To

1. The Deputy registrar of Co-operative Societies,
Coimbatore Circle,
Coimbatore.

+1cc to the Government Pleader, S.R.No.37037

W.P.Nos.38138 to 38140 of 2003
and WMP.Nos.46303 & 46305 of 2003

RJ(CO)
RS(19/05/2017)