



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD) .No.1019 of 2017

and

C.M.P. (MD) No.6994 of 2017

V.Balasubramanian

President,

Q1151 Kariyapatti Teachers and Panchayat

Union Employees Co-operative Credit Society,

Kariyapatti Post, Virudhunagar District.

... Appellant

Vs.

1. The Deputy Registrar of Co-op Societies,
Office of the Deputy Registrar of
Co-operatives, Pandalkudi Road,
Aruppukottai Post and Taluk,
Virudhunagar District.

2. U/s.82 Inspection Officer/
Cooperative Sub Registrar
O/o.Deputy Registrar Co-operative
Societies, Pandalkudi Road,
Aruppukottai Post and Taluk,
Virudhunagar District.

... Respondents

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent Act, to set aside the order passed by this Court dated 04.04.2017 in W.P.No.5701 of 2017.

Prayer in WP(MD). 5701/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari to call for the records from the 1st and 2nd respondents relating to the impugned U/s.82 inspection report of the 2nd respondent in Na.Ka.No.Nil dated 13.02.2017 and consequential impugned surcharge proceedings in Na.Ka.No.628/2016 sa.pa. in S.C.No.5/2016-2017 dated 20.02.2017 passed by the 1st respondent and quash the same as illegal.

For Appellant

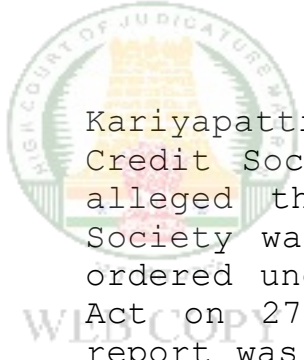
: Mr.C.G.Pethanaraj

J U D G M E N T

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

<https://hcservices.ecourts.gov.in/hcservices/>

The appellant herein was elected as the President of Q.1151



Kariyapatti Teachers and Panchayat Union Employees Co-operative Credit Society, Kariyapatti Post, Virudhunagar District. It was alleged that on account of the conduct of the appellant, the Society was put to loss. Enquiry was initiated. Inspection was ordered under Section 82 of the Tamil Nadu Co-operative Societies Act on 27.12.2016. Inspection was conducted. The inspection report was adverse to the appellant herein. Surcharge proceedings under Section 87 of the Act were recommended. Thereupon, the first respondent issued the surcharge notice dated 20 February 2017, calling upon the appellant herein as to why action should not be taken against him for recovery of the said amount. The inspection report and the notice issued under Section 87 of the Act were challenged by the appellant herein. The learned Judge dismissed the writ petition and imposed cost of Rs.2,000/- on the appellant. Aggrieved by the same, this appeal has been filed.

2.What has been issued under Section 87 of the Act is only a show cause notice. It is certainly open to the appellant to submit his explanation in response to the same. The first respondent has to necessarily conduct enquiry as contemplated by Section 87 of the Act and only thereafter pass final orders. At this stage, there is no interference called for. In any event, as against an order made under Section 87 of the Act, an appeal lies before the Co-operative Tribunal. Therefore, there is no need to invoke the jurisdiction under Article 227 of the Constitution of India. The learned Judge was right in dismissing the writ petition. However, in the facts and circumstances of the case, we are of the view that there is no necessity to impose cost on the writ petitioner. The order dated 04.04.2017 in W.P.No.5701 of 2010 is modified by setting aside the portion imposing cost on the writ petitioner.

3.The writ appeal is partly allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

+1 CC to MR.R.SARAVANAN, Advocate, SR No. **68902**.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. **69769**

SKM/ARUL

PSM/GT/SAR2/23.08.2017/2P/3C

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