

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.31142 of 2004

and

MP.No.37744 of 2004

K.Balasubramanian

....Petitioner

-vs-

1. The Deputy Registrar of Co-operative Societies,
Dharmapuri Region, Dharmapuri.
 2. The Special Officer,
Kadamadai Primary Agricultural
Co-operative Bank Ltd,
Kadamadai village,
Pennagaram Taluk,
Dharmapuri District.
 3. The Inspector of Police,
Civil Supplies CID, Krishnagiri.
- ...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of declaration, declaring the FIR Crime No.283 of 2004 dated 14.10.2004 on the file of the 3rd respondent herein is violative of the provisions of Sections 81,161,162 and 164 of the Tamil Nadu Co-operative Societies Act, 1983 and violative of Entry 4 of List-1, Entry 32 of List-II, Entry 1 of List-III of the VIIth schedule of the Constitution of India, arbitrary, null and void.

For Petitioner : Mr.R.Thamarai Selvan

For Respondents : Mrs.T.Girija
Government Advocate.

O R D E R

The present writ petition is for a declaration to declare the FIR registered in Crime No.283 of 2004 dated 14.10.2004 on the file of the 3rd respondent is violative of the provisions of Sections 81,161, 162 and 164 of the Tamil Nadu Cooperative Societies Act.

2. The issue in relation to the registration of criminal case in respect of the employee of the Cooperative Societies were settled by this Court in the case of V.S. Ramasubramaniam Vs. The State of Tamil Nadu, rep. by its Secretary to Govt., Food, Co-operation Department, reported in (2004) 2 LW 776 and the relevant paragraphs are extracted here under:-

"All the above Writ Petitions are related to Madurai Urban Co-operative Bank Limited (hereinafter called 'the Bank') and as such they were clubbed together and disposed of by this Common Order.

8. The Ex. President has filed W.P. No. 20028 of 2001 challenging the proceedings dated 8-10-2001, by which an enquiry has been ordered under Section 81 of the Tamil Nadu Co-operative Societies Act (hereinafter referred to as 'the Act') as to the affairs relating to mismanagement of the bank and the said enquiry has been directed to be held by one Thiru Alagiriswamy, Registrar of Co-operative Societies in the Office of the Registrar. W.P. No. 15079 of 2002 has been filed by the Ex. President for the issuance of a Writ of Certiorari, challenging the proceedings of the Registrar dated 15-4-2002, in and by which, a discreet enquiry was directed to be made by his sub-ordinates with reference to the advancement of loans to a tune of Rs. 2 lakhs and above from 1-12-1996 onwards by the Bank and to submit a report.

9. Writ Petition Nos. 19046 and 22828 of 2003 have been filed by the Ex. President as well as the Ex. Director, challenging the proceedings of the Joint Registrar of Co-operative Societies, Madurai Region dated 27-5-2003, in and by which, the Ex. President and Ex. Director were called upon to show cause by virtue of the provisions contained in Section 36 of the Act for the purpose of permanent disqualification.

10. Writ Petition No. 28262 of 2003 has been filed by the Ex. President, challenging the proceedings of the Additional Registrar of Co-operative Societies, Chennai, dated 29-7-2003

ordering an inspection under Section 82 of the Act.

11. Writ Petition Nos. W.P. Nos. 24257, 24894, 25156, 25206, 25258, 26347, 26348, 26349, 26350, and 26968 of 2003 have been filed by the Ex. President, Ex. Director, Ex. Secretary, Ex. Vice President and the the Ex. Employees of the Bank, challenging the F.I.R. in Cr. No. 9 of 2003 dated 22-8-2003 on the file of the Inspector of Police, CCIW-CID, Madurai.

15. All the above said reliefs claimed in the different Writ Petitions are as a sequel to allegations of mismanagement and other alleged corrupt practices of the Ex. President, Ex. Vice President, Ex. Director, Ex. Secretary and the Ex. Employees of the Bank in the course of their functioning as such in their different Capacities during the period between 1-11-1996 and 25-5-2001.

22. After the proceedings dated 15-4-2002, the concerned officials who were directed to make certain enquiries as regards the loans advanced by the Bank to the tune of Rs. 2 lakhs and above, the team of officials have completed their task and filed the report dated 31-10-2002. It is the said report which has triggered further probe into the various aspects relating to allegation of corrupt practice and mismanagement in respect of the affairs of the bank by the Ex. Office Bearers as well as Ex. Employees of the bank. In fact, as a sequel to the said report dated 31-10-2002, it is stated that while on the one hand, the F.I.R. came to be registered on 22-8-2003 in Cr. No. 9 of 2003 on the file of the Inspector of Police, CCIW-CID, Madurai, a regular enquiry has also been in the anvil to be held under Section 81 of the Act apart from inspection ordered under Section 82 of the Act. The Ex. Office Bearers and the Employees have therefore come forward with the present Writ Petitions, seeking to thwart the initiation of any enquiry under Section 81 of the Act and also the quashing of the FIR itself for various grounds urged in their respective Writ Petitions."

3. In view of the legal principles settled, this Court is of an opinion that the writ petitioner has to defend his case before the Competent Court of Law by availing the opportunities to be provided. With these observations, the writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

Pkn

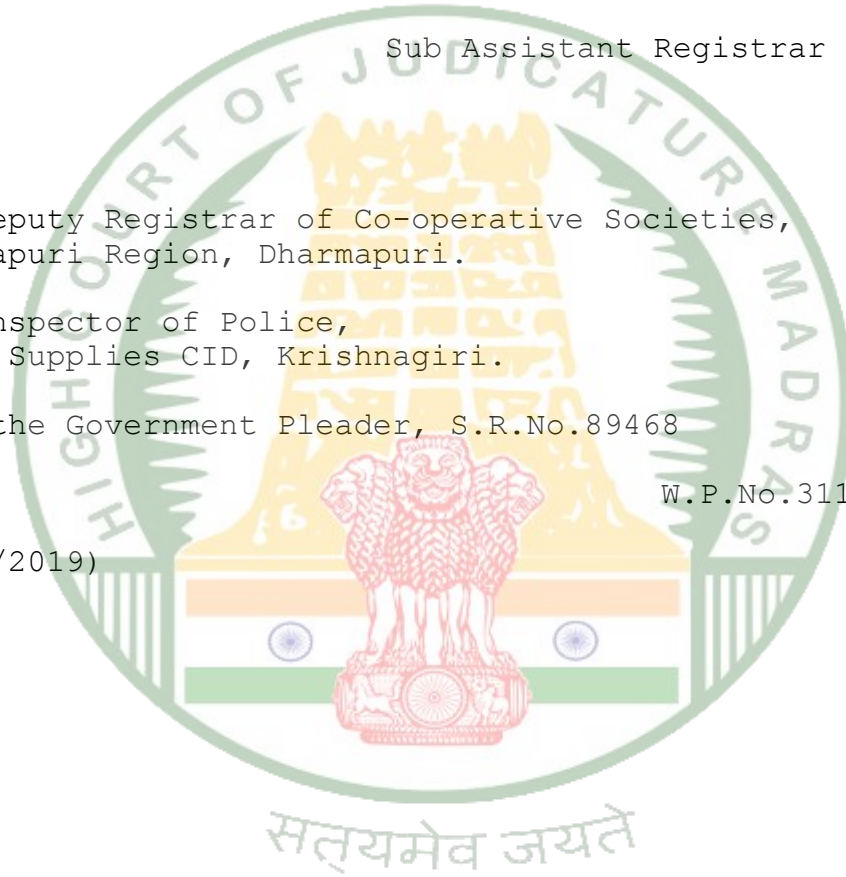
To

1. The Deputy Registrar of Co-operative Societies,
Dharmapuri Region, Dharmapuri.
2. The Inspector of Police,
Civil Supplies CID, Krishnagiri.

+1 cc to the Government Pleader, S.R.No.89468

W.P.No.31142 of 2004

CP(CO)
SSM(10/01/2019)



WEB COPY