

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.A.No.659/2018 and
CMP.No.6319 of 2018

A.Shanmugam ... Appellant
vs

1. The Joint Registrar of Co-operative Societies,
Namakkal Region, Namakkal,
Namakkal District.
2. The Managing Director/Deputy Registrar,
Tiruchengode Co-operative Urban Bank
Limited No.8994, Tiruchengode,
Namakkal District. ... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 11.09.2017 made in W.P.No.14156 of 2016 by a learned Single Judge.

Writ petition is filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus, Calling for the entire records relating to the impugned order passed by the 2nd respondent in his proceedings No.Nil dated 04.04.2016 and quash the same and consequently directing the respondents to disburse the subsistence allowance together with arrears to the petitioner from date of suspension 10.12.2015 by taking note of order passed by this Honourable Court in W.P.No.22957 of 2012 dated 17.07.2014.

For Appellant :: Mr.C.Prakasam
For Respondents :: Mr.L.P.Shanmugasundaram,
Special Government Pleader

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 11.09.2017 made in W.P.No.14156 of 2016 by a learned Single Judge.

2. Heard the learned Counsel for the appellant and the learned Special Government Pleader appearing for the respondent Co-operative Society.

3. A perusal of the records would disclose that in the case on hand, the Managing Director/Deputy Registrar issued an order impugned in the Writ Petition. The Managing Director is also one of the Directors of the Elected Board and he is only a functional Director, who has to communicate the decisions of the Board to the persons concerned. Thus, an order passed by the Society cannot be construed as an order passed by the State. As such, for all purposes, the order impugned is an order passed by the Management of Co-operative Society against which the revision lies only under Section 153 of the Tamil Nadu Co-operative Societies Act. Further, it is the well settled legal position that no writ can be entertained under Article 226 of the Constitution of India against the order passed by the Co-operative Society as held by a Larger Bench of this Court in the case of Marappan v. The Registrar of Co-operative Societies, Namakkal Circle, Namakkal, reported in 2006 (4) CTC 689. Observing the said legal position, the learned Single Judge has held as follows:

'11. This being the legal position, the order impugned in this writ petition is an order passed by the Co-operative Society and accordingly, no writ can be entertained. Thus, the writ petition is dismissed as not maintainable and it is left open for the writ petitioner to approach the competent authorities under Section 153 of the Tamil Nadu Co-operative Societies Act, and accordingly, no further orders are required to be passed in this Writ Petition and the Writ Petition stands dismissed. However, there shall be no order as to cost. Consequently, connected Miscellaneous Petitions are also dismissed.'

4. We find no infirmity in the order passed by the learned Single Judge. As held by the learned Single Judge, it is open to the writ petitioner/appellant to approach the competent authorities under Section 153 of the Tamil Nadu Co-operative Societies Act within a time stipulated under the said Act. Since a considerable period has been lapsed in filing the present Writ Appeal, in order to overcome the period of limitation, this Court directs the appellant to approach the competent authority under the Act, within a period of one week from the date of receipt of a copy of this Order and on receipt of the same, the competent authority, shall consider and dispose of the case of the appellant, within a period of four weeks thereafter.

5. With the above observation and direction, the Writ

Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS IV)

//True copy//

Sub Assistant Registrar

tsi

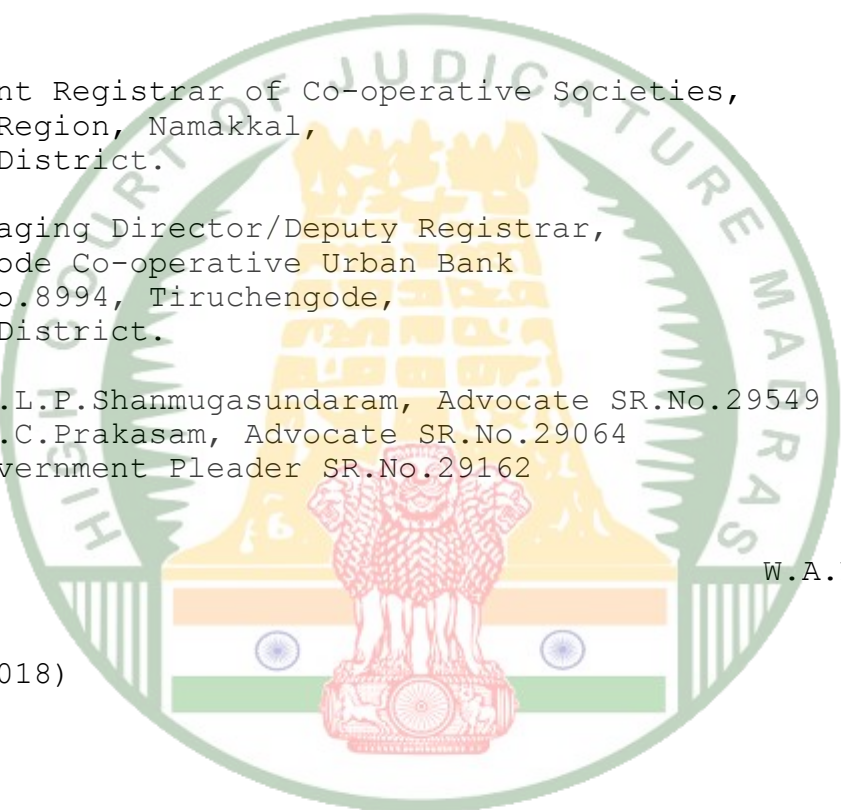
To

1. The Joint Registrar of Co-operative Societies,
Namakkal Region, Namakkal,
Namakkal District.
2. The Managing Director/Deputy Registrar,
Tiruchengode Co-operative Urban Bank
Limited No.8994, Tiruchengode,
Namakkal District.

+1cc to Mr.L.P.Shanmugasundaram, Advocate SR.No.29549
+1cc to Mr.C.Prakasam, Advocate SR.No.29064
+1cc to Government Pleader SR.No.29162

W.A.No.659/2018

KAN (CO)
GN (17/05/2018)

The seal of the High Court of Madras is a circular emblem. It features a central golden temple gopuram (tower) with a red lion standing in front of it. The lion is facing forward and is flanked by two smaller lions. The entire emblem is set against a background of horizontal stripes in orange, white, and green. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular border around the central image. Below the seal, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

WEB COPY