

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 21568 of 2018
and
W.M.P. 25319 of 2018

C.Subramanian

... Petitioner

Vs

1. The District Collector,
Cuddalore,
Cuddalore Dt.
2. The Deputy Registrar (DIARY),
No.37, Theradi Street,
Thirupathiripuliyur,
Cuddalore-2, Cuddalore Dt.
3. The General Manager,
Villupuram and Cuddalore District
Milk Producers Cooperative Society,
Villupuram, Villupuram Dt.
4. The Senior Divisional Inspector,
DIARY Farm, Aavin,
Chinnasalem, Villupuram Dt.
5. The Secretary,
TND-208, Vadapathy Milk Weavers
Cooperative Society,
Vadapathy & Post, Villupuram Dt.

Impleaded as per order dated 01.10.2018
in W.M.P. 29982 of 2018

6. Mr.C.Sekar

7. Mr.P.Kadamban

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the 2nd respondent in Na.Ka.No.52/E/18 dated 30.07.2018 and quash the same and consequently directing the 2nd and 3rd respondents to re-open the TND 224(A) Sirupakkam Milk Producers Cooperative Milk Society, Cuddalore District.

For Petitioner : Ms.S.Meenakumari

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

Mr.P.Jagadeesan for R6 & R7

O R D E R

This Writ Petition has been filed challenging the order passed by the 2nd respondent rejecting the petitioner's request for reviving the erstwhile Sirupakkam Milk Producers Cooperative Society.

2. The grievance of the petitioner is that, a Cooperative Milk Producers Society called, Sirupakkam Milk Producers Cooperative society was formed in the year 1989, and the above society was closed due to improper maintenance of the then office-bearers, and then it was amalgamated with the 5th respondent society. Eversince the amalgamation, the members of the erstwhile Sirupakkam Milk Producers Cooperative Society are selling milk to the 5th respondent society. Since the members of the erstwhile Sirupakkam Society have felt some inconvenience in selling the milk to the 5th respondent, they have submitted a representation to the authority to start a new society exclusively for Sirupakkam village. But, without considering their request in proper perspective, the 2nd respondent had passed an order in the year 2010 directing the Sirupakkam villagers to supply milk to the 5th respondent society. Even thereafter, the petitioner and others are making representation to the respondents for forming a separate cooperative society in Sirupakkam village. Subsequently, in the year 2011, the 2nd respondent has recommended to the 3rd respondent for registering a new society, even after that recommendation, the representation of the petitioner was not considered.

3. Now, the 2nd respondent passed the impugned order rejecting the request of the petitioner on the ground, that society has been closed for non-functioning and it was amalgamated with the 5th respondent society, and it is not feasible to re-open the society. Apart from that, the villagers from Sirupakkam have also made a representation to the authorities not to divide the society and to form a new society. Now, challenging the above said order, the present Writ Petition has been filed.

4. The respondents 1 and 2 have filed their counter affidavit stating that the Milk Producers Cooperative Society was registered in the Sirupakkam village during 1978 and subsequently, in the year 1989, the society was ordered to be liquidated and the affairs of the said society also closed by

the order passed by the 2nd respondent dated 31.10.2001. Considering the milk procurement in the Sirupakkam village and final closure of the society, the area of Sirupakkam was later included in the area of operation of the 5th respondent society, after following the formalities provided in the Tamil Nadu Cooperative Societies Act and Rules, and the byelaws was also amended during the year 2002. Now, the petitioner association has submitted a representation to the District Collector requesting to organise a milk producers cooperative society in Sirupakkam village. Based on the representation, the 3rd respondent union was directed to submit the feasibility report after conducting field survey in organising milk producers cooperative society in Sirupakkam village. However, some members of the Sirupakkam village, who are now supplying milk to the 5th respondent society have given a representation stating their willingness to supply milk only to the 5th respondent society continuously and expressed their unwillingness to organise a new society in Sirupakkam village. Since organising a society in Sirupakkam village involves formalities like division of area of operation from the 5th respondent society, the members of Sirupakkam village also opposing for organising a new society. Hence, the 3rd respondent has submitted a report to the 2nd respondent and based on that, the 2nd respondent passed the impugned order.

5. It is further submitted in the counter affidavit that the bifurcation of the society without improvement in the milk procurement will cause loss to both the societies, and organising a new society by bifurcation without the consent of the existing members is also not feasible. If any society is organised in Sirupakkam village, it will be in violation of the provisions of the Tamil Nadu Cooperative Societies Act, Rules and Byelaws. Hence, there is no possibility to form a new cooperative society in Sirupakkam village.

6. That apart, the people in Sirupakkam village opposing for organising a new Milk producers cooperative society in Sirupakkam by bifurcating the 5th respondent society, now they are availing the benefits by enrolling themselves in the 5th respondent society, and any bifurcation in the society will cause loss to the existing society, and the new society if organised in Sirupakkam village will hamper both the existing and proposed society.

7. Some of the villagers of Sirupakkam village have also filed application to implead themselves as party respondents and they have submitted that most of the villagers in Sirupakkam village only want to supply milk to the 5th respondent society and they are not willing to form a new society in Sirupakkam village.

8. I have heard the rival submissions and perused the materials available on record carefully.

9. The main grievance of the petitioner is that supplying milk to the 5th respondent, which is situated in some other village, is causing inconvenience to the Sirupakkam villagers. Hence, they want to form a new society or to divide the 5th respondent society. It is submitted by the respondents 1 to 4, that the forming of new society is not feasible and even some of the members villagers are not in favour of forming a new society. Admittedly, earlier, the Sirupakkam society was dissolved and the area in operation of the above society has been attached to the 5th respondent society. If the petitioner wants the division of the society, he has to necessarily follow the procedures prescribed under Sec. 13, of the Tamil Nadu Cooperative Societies Act. For which, a general body should be called by 2/3rd members of the society. In the said circumstances, without going to the merits of the case, if the petitioner is interested in forming new society bifurcating 5th respondent society, it is always open to him to make a request for convening a general body to decide the issue as per the byelaws of the society as well as under Sec.13, of the Tamil Nadu Cooperative Societies Act. If the general body approves the division of the 5th respondent society, then the authority will decide the issue based on the resolution. In the said circumstances, the petitioner is directed to make necessary request for convening a general body meeting and it is for the general body to decide the issue of division of the 5th respondent society.

10. With the aforesaid observation, the Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is also closed.

s/d-

Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

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To

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Vadapathy & Post, Villupuram Dt.

+2 Ccs to MR.P.Jagadeesan, Advocate sr 67686

+1 cc to The Govt. Pleader sr 68129.

+1 CC to Mr.D. Balachandran, Advocate sr 67885.

+2 Ccs to Mr.L.P.Shanmugasundaram, Advocate sr 68114, 68886.

W.P. 21568 of 2018
and

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RJ(CO)
SP(19/11/2018)



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