

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P. 12775 of 2018
and
W.M.P. 14994 of 2018

P.Thiruvenkadam

... Petitioner

Vs

1. The Government of Tamil Nadu,
rep. by its Secretary,
Co-operative Department,
Fort St. George,
Chennai-600 009.
2. The Deputy Registry of
Co-operative Societies,
Tindivanam,
Villupuram District.
3. The Special Officer,
CL SPL 153, Palapattu Primary
Agricultural Co-operative Credit
Society, Sendur Post,
Pallapattu, Tindivanam tk.
4. The Co-operative Sub-Registrar,
(Enquiry Officer), Field Officer,
Mailam at Kotteripattu,
Tindivanam Taluk,
Villupuram District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of CERTIORARIFIED MANDAMUS, calling for the records of the 4th respondent herein i.e. Co-operative Sub-Registrar, Field Officer, Mailam (Enquiry Officer) culminating in summon dated 07.05.2018 issued to the petitioner, quash the same and further direct the 3rd and 4th respondents to drop all further action against the petitioner initiated under Sec.81(2)(1) A of the Tamil Nadu Co-operative Societies Act.

For Petitioner : Mr.K.Balakrishnan

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader
for Respondents 1 and 2

: Mrs.T.Girija, Government Pleader
for Respondents 3 and 4

O R D E R

This writ petition has been filed challenging the summons issued by the 4th respondent to the petitioner calling upon him to appear for enquiry proposed to conduct under Sec.81 of the Tamil Nadu Co-operative Societies Act.

2. The main contention of the petitioner is that Sec.81 enquiry is proposed to be conducted in respect of six irregularities said to have committed in the 3rd respondent society, in which the petitioner is working as Clerk. One of the allegations is that there is an irregularity in advancing the jewel loan and also conducting jewel auction.

3. According to the petitioner, the jewel auction has been conducted by a committee constituted by the 2nd respondent consisting of six persons and one Mrs.Shanthi, the 4th respondent herein was one of the members in the committee. Now, the above said Mrs.Shanthi has been appointed to enquire into the charges. As one of the charges relating to auctioning of jewels conducted by the Committee, in which the 4th respondent was also a member, in the said circumstances, apprehending that the enquiry will not be conducted in a fair manner, he has filed the present Writ Petition challenging the enquiry.

4. The learned counsel appearing for the 4th respondent has filed the counter affidavit, wherein she has admitted that she was one of the member of the Jewel Auction Committee, however all the auction was conducted by the petitioner alone. Hence, there is no irregularity committed by the 4th respondent.

5. I have heard the submissions made by the learned counsel appearing for the petitioner as well as Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for respondents 1 and 2 and Mrs.T.Girija, learned Government Advocate for respondents 3 and 4.

6. Admittedly, as per the order passed by the 2nd respondent dated 23.08.2016, a Committee was constituted for conducting the jewel auction and the 4th respondent herein, who was working as Field Officer appointed as one of the members in the Committee.

Now, the enquiry is proposed to be conducted in respect of six charges and one of the charges is that there is an irregularity in advancing the jewel loan and also auctioning the jewels. When the jewel auction was being conducted by the Committee, in which the 4th respondent was also a member, it is not proper for the 4th respondent herself to conduct the enquiry. It is well settled law that a person cannot be a judge for his own cause. In the said circumstances, instead of setting aside the enquiry, this Court is of the view that it is suffice to direct the 2nd respondent to appoint some other competent officer to conduct enquiry instead of Mrs.Shanthi, i.e. 4th respondent.

7. In the result, the Writ Petition is disposed with a direction to the 2nd respondent to appoint a competent officer to conduct the enquiry under Sec.81 of the Tamil Nadu Cooperative Societies Act instead of Mrs.Shanthi and the enquiry officer is directed to proceed with the enquiry and to complete the enquiry within a period of three months from the date of receipt of the copy of this order and submit the report.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Co-operative Department,
Government of Tamil Nadu,
Fort St. George, Chennai-600 009.
2. The Deputy Registry of
Co-operative Societies,
Tindivanam, Villupuram District.

+1cc to Mr.K.Balakrishnan, Advocate, S.R.No.61191
+1cc to Ms.T.Girija, Advocate, S.R.No.61443
+1cc to the Government Pleader, S.R.No. 61731

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and

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NRL(CO)
rrs 09/10/2018