

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10..08..2018

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.19292 of 2018
and
W.M.P.No.22665 of 2018

R.Gunasekaran

... Petitioner

-Versus-

- 1.The Deputy Registrar of Co-operative Societies (Housing),
Coimbatore Region,
Ramasamy Salai,
Vadacovai, Chinthamani Complex,
Coimbatore-641002.
- 2.The Cooperative Sub-Registrar (Housing), (Coimbatore-3)
Coimbatore Region,
Ramasamy Salai,
Vadacovai, Chinthamani Complex,
Coimbatore-641002.
- 3.The Special Officer,
Periyannayakkanpalayam Co-operative
House Building Society Ltd., K-1709,
Kurunthachala Nagar,
K.Vadamadurai (Post),
Coimbatore 641017.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records of the 1st respondent relating to the order made in Ref. Na.Ka. 1321-1998 sapa dated 14.11.2017 and to quash the same.

For Petitioner

: Mr.V.Sanjeevi

For Respondents

: Mr.L.P.Shanmugasundaram,
Spl. Government Pleader for
R1 to R3

ORDER

Challenging the surcharge order in Na.Ka 1321-1998/sapa dated 14.11.2017 passed against the petitioner under Section 87 of The Tamil Nadu Cooperative Societies Act, 1983 [for short, the Act"], the petitioner, who was one of Directors of The Periyannayakkanpalayam Co-operative House Building Society Limited (K-1709) , has come up with this writ petition.

2. Heard both sides.

3. Even though the learned counsel appearing for the petitioner argued the matter elaborately attacking the surcharge order impugned in this writ petition on various grounds, on perusal of the order, this court found that while conducting the enquiry under Section 87 of the Act, the procedures contemplated thereunder have not been followed and on this ground alone the impugned order has to be necessarily set aside and remanded back to the 1st respondent for consideration afresh by strictly following the procedures contemplated in Section 87 of the Act.

4. The learned Special Government Pleader for the respondents, on instructions, fairly conceded that while conducting enquiry against the petitioner, the procedures contemplated under Section 87 of the Act were not followed.

5. In the above circumstances, the impugned order passed by the 1st respondent is liable to be set aside and the matter is required to be remanded back to him for fresh enquiry.

In the result, the surcharge order made in Na.Ka.1321-1998 sapa dated 14.11.1997 by the 1st respondent against the petitioner is set aside and the matter is remanded back to the 1st respondent, who, in turn, shall conduct enquiry afresh by strictly following the procedures contemplated under section 87 of the Act and pass appropriate order after due notice to the petitioner. The above said exercise shall be completed within a period of four months from the date of receipt of a copy of this order. The petitioner is directed to co-operate with the 1st respondent for enquiry. This writ petition is disposed of accordingly. No costs. Consequently connected WMP is closed.

Sd/-

Assistant Registrar (CS-VII)

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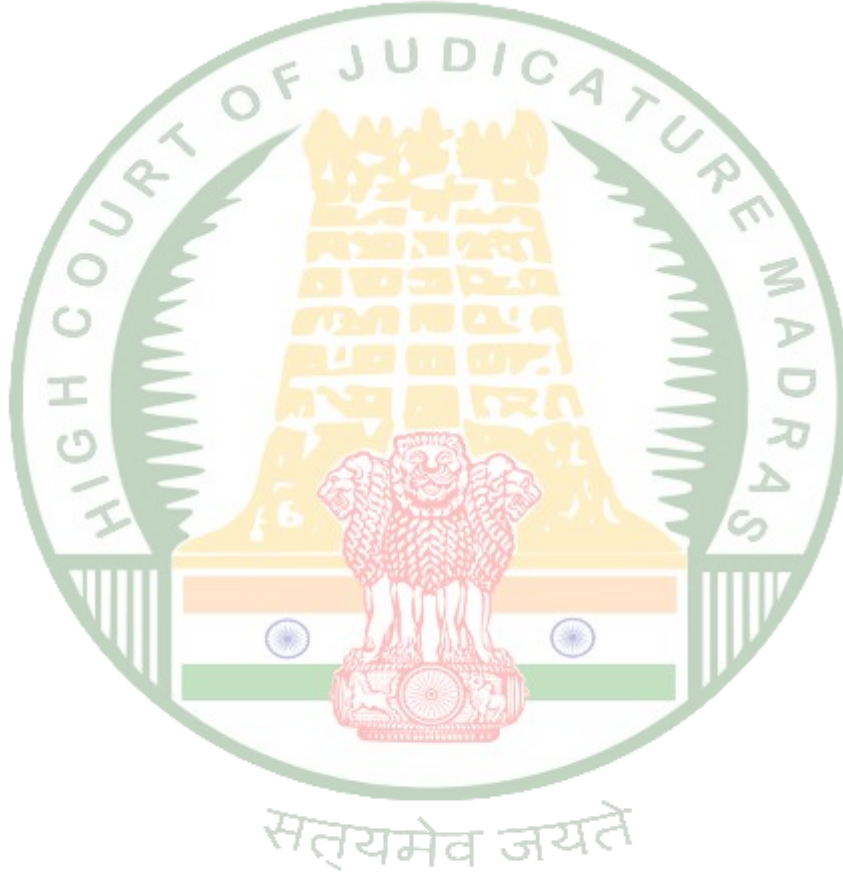
Sub Assistant Registrar

To

+1cc to Mr.L.P.Shanmugasundaram, Advocate SR.No.55826
+1cc to Mr.V.Sanjeevi, Advocate SR.No.55146
+1cc to Government Pleader SR.No.55655

W.P.No.19292 of 2018

AK (CO)
SMI/29.08.2018



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