



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A(MD)No.366 of 2018
and
C.M.P(MD)No.2253 of 2018

R.Poomayil

..Appellant/Petitioner

Vs .

1. The Secretary to Government,
Cooperation, Food and Consumer Protection Department,
Secretariat,
St. George, Fort, Chennai.
2. The Registrar of Cooperative Societies,
Keelpaukkam,
Chennai.
3. The Joint Registrar Cooperative Societies,
Ramanathapuram District,
Ramanathapuram.
4. K.Jeyakumar / Special Officer,
Q 1281 Pookulam Primary Agriculture Credit Society,
Pookulam,
Muthukulathur Taluk,
Ramanathapuram District,
Ramanathapuram.
5. The Deputy Registrar Cooperative Societies,
Paramakudi Circle, Paramakudi,
Ramanathapuram District.

.. Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, to allow the writ appeal by setting aside the order dated 02.02.2018 made in W.P(MD)No.2130 of 2018 and allow the Writ Petition.

Prayer in WP(MD)No.2130/ 2018 :

<https://hcservices.ecourts.gov.in/hcservices/> Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records on the file of 3rd respondent



vide proceedings Na.Ka. 7444/2017/Sa.Pa. dated 11.01.2018 so far as petitioner concerned under section 88(1) of the Tamil Nadu Co-operative Societies Act and quash the same as illegal as devoid of merits.

For Appellant : Mr.Raja Karthikyan
For R-1 to R-3 : Mr.C.M.Mari Chelliah Prabhu,
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by M.SATHYANARAYANAN,J.)

The Writ Petitioner is the appellant and also a Director of Q 1281 Pookulam Primary Agriculture Credit Society, Pookulam, Muthukulathur Taluk, Ramanathapuram District and she made a challenge to the proceedings of the third respondent dated 11.01.2018 in Na.Ka.7444/2017/sa.pa, in and by which, the third respondent ordered supersession of the fourth respondent-Society under Section 88(1) of the Tamil Nadu Co-operative Societies Act, 1983, by filing W.P(MD)No.2130 of 2018.

2.The learned Judge after taking note of the availability of alternative remedy under Section 152(2) of the Tamil Nadu Co-operative Societies Act, 1983, has dismissed the said Writ Petition granting liberty to the petitioner to avail the said liberty and challenging legality of the same, the present Writ Petition is filed.

3.Mr.Raja Karthikeyan, learned counsel appearing for the appellant/writ petitioner has invited the attention of this Court to the typed set of documents and would submit that the show-cause notice dated 13.11.2017 was issued by the third respondent, as to the shortage of jewels found in the locker and for which, the management of the said Society submitted its response dated 25.11.2017 stating that they are no way responsible for the said shortage of jewels and prayed for fifteen days time to submit their full response. The third respondent vide impugned order dated 11.01.2018, after recording the factual finding has found that time is sought for only, to delay the proceedings and therefore, analysed the materials and came to the conclusion that the fourth respondent-Society is to be superceded and appointed the Special Officer.

4. The learned counsel appearing for the appellant/writ petitioner would further submit that on earlier occasion, a show-cause notice was issued, for which, response was submitted, but without taking any action on the same, the present impugned order has been passed ordering supersession of the Society and would further add that the election process for the co-operative society had also been commenced and if the Society is superceded, the said finding would definitely act as a stigma and the petitioner may not be able to participate in the said election and prays for



interference.

5. Per contra, Mr. C.M. Mari Chelliah Prabhu, learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that the points urged by the learned counsel appearing for the appellant/writ petitioner, revolve around the adjudication of proceedings on disputed question of facts and it is open to the appellant herein to raise all the grounds and points before the Appellate Authority and on account of the availability of effective alternative remedy in the form of statutory appeal, the writ petition itself is not maintainable and therefore, prays for dismissal of this Writ Appeal.

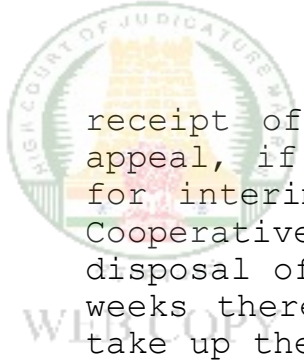
6. This Court has carefully considered the rival submissions and perused the materials placed before it.

7. The primordial submission made by the learned counsel appearing for the appellant/writ Petitioner is that in response to the show-cause notice issued by the third respondent dated 13.11.2017, a reply was sent on 25.11.2017 and though it pertains to extension of time to submit their response, it also contains explanation as to some of the allegations and in all fairness, the third respondent ought to have considered the same.

8. A perusal of the impugned order dated 11.01.2018 would disclose that the third respondent has held that the management of the Society is adopting dilatory tactics in the form of submitting representation praying for extension of time to submit their response and therefore, gone into the merits of the matter and ordered supersession of the fourth respondent/society under Section 88(1) of the Tamil Nadu Co-operative Societies Act, 1983.

9. It is to be noted at this juncture that the appellant/writ petitioner is having an effective alternative remedy under Section 152(2) of the Tamil Nadu Co-operative Societies Act, 1983 and there is also a provision for obtaining interim orders pending adjudication of the appeal under Section 152(6) of the said Act. Since a Statutory Authority is going to adjudicate the issue, this Court cannot presume that the grounds urged by the appellant/writ petitioner, may not be considered by the appellate authority. The learned Judge has rightly taken note of the said fact and dismissed the Writ Petition granting liberty to avail the appeal remedy. This Court finds no error or infirmity in the reasons assigned by learned Judge for dismissed the Writ Petition by granting liberty to the appellant/writ petitioner to avail the alternative remedy.

10. The appellant/writ petitioner is permitted to file a statutory appeal under Section 152(2) of the Tamil Nadu Cooperative Societies Act, 1983 along with a petition for stay for interim orders under Section 152(6) of the said Act, within a period of one week from the date of receipt of a copy of this judgment, before the Registrar of Co-operative Societies, Chennai- 600 010 and upon



receipt of the same, the Appellate Authority shall entertain the appeal, if it is otherwise in order and shall take up the petition for interim orders, filed under Section 152(6) of the Tamil Nadu Cooperative Societies Act, 1983, at the first instance and give a disposal of the same, in accordance with law, within a period of two weeks thereafter. The Appellate Authority is also at liberty to take up the main appeal itself and give a disposal, on merits and in accordance with law, within a period of six weeks from the date of entertainment of the appeal.

11. The Writ Appeal is dismissed, subject to the above observations. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (Co)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Cooperation, Food and Consumer Protection Department,
Secretariat,
St. George, Fort, Chennai 600 009
2. The Registrar of Cooperative Societies,
Keelpaukkam,
Chennai.
3. The Joint Registrar Cooperative Societies,
Ramanathapuram District,
Ramanathapuram.
4. The Deputy Registrar Cooperative Societies,
Paramakudi Circle, Paramakudi,
Ramanathapuram District.

+ 1 CC TO Mr.RAJA KARTHIKEYAN, ADVOCATE IN SR No. 54346
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 54796

PM

TE/SKN-RSK/SAR-2 : 14/03/2018 : 4P/7C

W.A(MD)No.366 of 2018 and
C.M.P (MD)No.2253 of 2018
09.03.2018