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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN

and

THE HONOURABLE MR.JUSTICE P.D. AUDIKESAVALU

W.A. (MD) No. 1581 of 2018

N. Krishnasamy

... Appellant/Petitioner

-vs-

1. The Registrar of Cooperative Societies (Housing),
Tamil Nadu Cooperative Housing Societies Complex,
2nd Floor, No.48, Ritharton Road,
Vepperi, Chennai - 600 007.
 2. The Regional Deputy Registrar of Cooperative Societies
(Housing),
Ramalingasamy Charitable Building Campus,
Daniel Thomas Nagar,
Medical College Road,
Opp. To Old Housing Unit,
Thanjavur,
Thanjavur District.
 3. The President,
T.834, Shanmuga Nagar Cooperative Buildings Society Ltd.,
Opp. To Kundavai Natchiar Women's College,
Kannan Nagar, Thanjavur - 613 007,
Thanjavur District.
 4. The Secretary,
T.834, Shanmuga Nagar Cooperative Buildings Society Ltd.,
Opp. To Kundavai Natchiar Women's College,
Kannan Nagar, Thanjavur - 613 007,
Thanjavur District.
- ... Respondents/Respondents

PRAYER : Writ Appeal filed under Clause 15 of Letter Patent, praying to set aside the order passed by this Court in W.P. (MD) No. 18416 of 2018 dated 04.09.2018 by allowing the present Writ Appeal.

Prayer in WP(MD). 18416/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of mandamus directing the respondents 1 & 2 herein to consider and pass appropriate orders on the petitioners representation dated 13/07/2018 by implementing the proposal sent by the respondents 3 & 4 herein dated 30/01/2017.



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For Appellant
For Respondents

: Mr. R. Thangapandian
: Mr. A.K. Baskarapandian,
Special Government Pleader
(for R1 & R2)
No appearance (for R3 & R4)

J U D G M E N T

(Judgment of the Court was delivered by P.D. AUDIKESAVALU, J.)

The Appellant who was employed as Manager in T.834, Shanmuga Nagar Co-operative Buildings Society Limited, attained the age of superannuation on 30.09.2015. The President and the Secretary of that Co-operative Society, who are the Third and Fourth Respondents, had sent the proposal for issuing relieving order and settling the terminal benefits of the Appellant by communication dated 30.01.2017 along with a copy of the resolution dated 31.12.2016 passed by the Board of Directors of that Society to the First and Second Respondents. The Appellant has filed W.P. (MD) No. 18416 of 2018 for a direction to the First and Second Respondents to consider and pass appropriate orders on the representation dated 13.07.2018 made by the Appellant for implementing the proposal dated 30.01.2017 sent by the Third and Fourth Respondents.

2. The Learned Judge of this court by order dated 04.09.2018, declined to entertain a Writ Petition on the ground that it was not maintainable in view of the *dictum* laid down by the Five Judge Bench of this Court in **Marappan -vs- Deputy Registrar of Co-operative Societies, Namakkal** [(2006) 4 CTC 689], that a Writ Petition will not lie against a Co-operative Society. Aggrieved thereby, the Appellant has preferred this intra-Court Appeal.

3. We have heard Mr. R. Thangapandian, Learned Counsel for the Appellant and Mr. A.K. Baskarapandian, Learned Special Government Pleader, appearing on behalf of the First and Second Respondents and perused the materials placed on record apart from the pleadings of the parties.

4. On a perusal of the relief sought by the Appellant in the Writ Petition, it is seen that the Appellant had sought for a direction to the First and Second Respondents to consider and pass orders on his representation dated 13.07.2018 for implementing the proposal dated 30.01.2017 sent by the Third and Fourth Respondents and as such, it could not be said that the Appellant had sought relief against Third and Fourth Respondents in the Writ Petition for declining to entertain the same.

5. Further, we are of the considered view that in view of Part IX-B inserted to the Constitution of India, 1950, by the Constitution



(Ninety-seventh Amendment) Act, 2011, with effect from 15.02.2012, the Co-operative Societies have been given constitutional status and resultantly, the ratio laid down in the aforesaid decision of the Five Judge Bench of this Court in **Marappan -vs- Deputy Registrar of Co-operative Societies, Namakkal** [(2006) 4 CTC 689], pales into insignificance. However, as already noticed supra, that question does not really arise for consideration in this case inasmuch as the actual relief has been sought against the First and Second Respondents, who are statutory authorities under the Tamil Nadu Co-operative Societies Act, 1983.

6. In such circumstances, the order dated 04.09.2018 passed in W.P. (MD) No. 18416 of 2018 is set aside and this Court, without expressing any view on the correctness or entitlement of the claim made by the Appellant, directs the First and Second Respondents to dispassionately consider the representation dated 13.07.2018 made by the Appellant and pass orders on merits in accordance with law on the same and communicate the decision taken to the Appellant by 28.02.2019.

7. The Writ Appeal is allowed on the aforesaid terms. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Registrar of Cooperative Societies (Housing),
Tamil Nadu Cooperative Housing Societies Complex,
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2. The Regional Deputy Registrar of Cooperative Societies
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4. The Secretary,
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Opp. To Kundavai Natchiar Women's College,
Kannan Nagar, Thanjavur - 613 007,
Thanjavur District.

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- 1 CC TO Mr.R.Thangapandian , ADVOCATE IN SR No.98735.
+1 cc to Special Government Pleader, SR.No.98912.

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vjt

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W.A. (MD) No. 1581 of 2018
05.12.2018