

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.23949 of 2009

G.Sekar

..Petitioner

Vs

1. The Deputy Registrar of Co-operative Societies
Ariyalur Circle, Ariyalur,
Ariyalur District.

2. The Special Officer,
R.1429, T.Palu Panchayat Union
Teachers Coop. Thrift and
Credit Society, T.Palur Post,
Udayarpalayam Taluk,
Ariyalur District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ order or direction
in the nature of writ of Certiorari, calling for the entire
records relating to the impugned order passed by the 1st
respondent in his proceedings CEP.No.51/2008-2009, dated
19.03.2009 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.D.Venkatachalam
Additional Government Pleader

O R D E R

The prayer sought for in this Writ Petition is for issuance
of a Writ of Certiorari, calling for the entire records relating
to the impugned order passed by the 1st respondent in his
proceedings CEP.No.51/2008-2009, dated 19.03.2009 and quash the
same.

2. The learned counsel appearing for the petitioner would
submit that the respondent herein ordered enquiry under Section
81 of the Tamil Nadu Cooperative Societies Act, 1983 with regard
to alleged irregularities in issuing loan to the members. But,

according to the members of the Society, they did not borrow any loan from the above said society. A perusal of the records would show that the said members of the Society have signed in the loan application forms and other connected records.

3. On the basis of the report submitted by the enquiry officer, enquiry under Section 81 of Tamil Nadu Co-operative Societies Act was concluded. After conclusion of the enquiry, the 1st respondent herein passed surcharge order. The petitioner is taking severe steps to file statutory Appeal under Section 152 of Tamil Nadu Co-operative Societies Act, 1983 before the District and Sessions Court, Perambalur, and the said order has been communicated to the petitioner.

4. When the above said situation prevails, the 1st respondent issued notice on 19.03.2009 in ARC.No.349/2008-2009 in CEP.No.51/2008-2009, dated 19.03.2009 to the petitioner, whereby the petitioner is directed to furnish security for not to attach his property as per Section 167 of Tamil Nadu Cooperative Societies Act. But, on the same day itself the 1st respondent attached his property in his proceedings No.CEP.No.51/2008, dated 19.03.2009.

5. The learned counsel appearing for the petitioner would submit that the petitioner filed a writ petition challenging the Conditional Attachment order passed by the Co-operative Societies on 19.03.2009 issued under Section 167 of the Tamil Nadu Co-operative Societies Act, 1983. Challenging the said order, the present writ petition is filed.

6. More over, the learned counsel appearing for the petitioner would submit that after concluding the enquiry, the order was passed and as against the said order, an appeal was also filed. However, the authority issued the impugned notice to the petitioner. Accordingly, the petitioner prays for appropriate order from this Court.

7. The learned counsel appearing for the respondents would submit that as against the interim order, appeal remedy is available before the Registry of Tribunal. But, the petitioner, without exhausting the appeal remedy, he has filed the present petition before this Court.

8. The very same issue was already dealt with by the Division Bench of this Court in "A.Balaraman & Others Vs The Deputy Registrar of Co-operative Societies, Thiruvannamalai District & Others" reported in CDJ 2009 MHC 149, wherein, this Court directed to approach the appropriate forum and the relevant portion of the order, is extracted here under;

" 7. In view of the well-settled legal principle, it is not possible for this Court to take a different view and go against the order passed by the learned Judge of the writ Court. We do not find any error in the judgment of the learned Judge of the Writ Court. We make it clear that it is open to the petitioners to file an appeal before the Appellate Tribunal. Since, the Tribunal also has power to consider the prayer for interim protection; it is open to the petitioners to ask for such protection. However, we do not say anything on the merits of the case of the petitioners. We also make it clear that if the Appellate Authority is approached within ten days from the receipt of a copy of this order, the Appellate Authority shall entertain the appeal on file without insisting on the question of limitation since the matter was kept pending in this Court. With these observations, the writ appeal is disposed of. We have not decided anything on merit. All questions are kept open. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs."

9. In view of the above, the present writ petition stands dismissed, by giving liberty to the petitioner to workout his remedy available before the appropriate forum in the manner known to law . No costs.

Sd/-

Assistant Registrar (CJ conf)

//True Copy//

Sub Assistant Registrar

kmm

To

1. The Deputy Registrar of Co-operative Societies
Ariyalur Circle, Ariyalur,
Ariyalur District.

2. The Special Officer,
R.1429, T.Palu Panchayat Union
Teachers Coop. Thrift and
Credit Society, T.Palur Post,
Udayarpalayam Taluk,
Ariyalur District.

+1cc to Mr.C.Prakasam, Advocate SR.58491
+1cc to M/S.R.Murali, Advocate SR.57981
+1cc to the Government Pleader SR.58587,58551

W.P.No. 23949 of 2009

SJ(CO)
CB(30/10/2019)



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