

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.03.2019

CORAM
THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.8350 of 2019 &
W.M.P.No.8888 of 2019

P.Mayilvahanan

... Petitioner

Vs.

1.The Deputy Registrar of
Co-operative Societies,
(Housing), Salem Region, Fairlands,
Salem - 636 016.

2.No.AA 182, Erode Co-operative Building
Society Ltd., Rep. by its President,
160, K.N.K.Road, Thirunagar Colony,
Erode - 638 003.

...Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Certiorari to call for the entire records relating to the impugned surcharge orders passed by the first respondent in his proceedings in Na.Ka.1665/2017 E, dated 18.12.2018 and quash the same.

For Petitioner : Mr.R.Krishnamoorthy

For Respondents : Ms.T.Girija
Government Advocate

O R D E R

Ms.T.Girija, learned Government Advocate takes notice for the respondents. By consent, this Writ Petition is taken up for final disposal.

2. The prayer in the Writ Petition is for issuance of Writ of Certiorari, to call for the entire records relating to the impugned surcharge order passed by the first respondent dated 18.12.2018 and quash the same.

3. The respondent-Society passed the impugned recovery order, on the ground that, the petitioner paid salary to the employees of the Society, without discharging the debt of the Society to the Federation.

4. According to the learned counsel for the petitioner, the first respondent has no jurisdiction for initiating the recovery proceedings, which is violative under Section 87(1) of the Tamil Nadu Co-operative Societies Act, 1983.

5. The learned Government Pleader appearing for the respondents would submit that the petitioner has to approach the Appellate Tribunal and without exhausting the alternative remedy of filing an appeal under Section 152 of the Tamil Nadu Co-operative Societies Act, the present Writ Petition filed by the petitioner is not maintainable.

6. At this juncture, the learned counsel for the petitioner requested for interim protection, till the appeal is preferred before the Tribunal.

7. In view of the above, this Writ Petition is not maintainable. However, liberty is given to the petitioner to approach the Appellate Authority, by filing an Appeal under Section 152 of the Tamil Nadu Co-operative Societies Act within a period of four weeks from the date of receipt of a copy of this order. Till such time, the impugned order shall not be given effect to.

8. Accordingly, this Writ Petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

r n s

To

The Deputy Registrar of
Co-operative Societies,
(Housing), Salem Region, Fairlands,
Salem - 636 016.

+1cc to the Government Pleader, S.R.No.28010

W.P.No.8350 of 2019 &
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RSV(CO)

RRS(28/06/2019)