

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 18.01.2019

CORAM:  
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.23196 of 2018  
and  
WMP.No.27097 of 2018

P.N.Chinnathambi

... Petitioner

Vs.

- 1.The Deputy Registrar of Co-operative Societies,  
Erode Circle, Erode,  
Erode District.
  - 2.The Supervisor,  
Erode District Central Co-operative Bank,  
Erode, Erode District.
  - 3.The Co-operative Sub Registrar/Field Officer,  
Perundurai, Erode District.
- ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records relating to the impugned order with the caption 'conditional attachment order' dated 09.08.2018 passed by the first respondent, quash the same.

For Petitioner : Mr.C.E.Pratap

For Respondents : Mr.L.P.Shanmugasundaram  
Special Government Pleader

ORDER

This writ petition has been filed challenging the conditional attachment order dated 09.08.2018 under Section 167 of the Tamil Nadu Co-operative Societies Act ("Act" in short) attaching the petitioner's property.

2.According to the petitioner, he was the Honorary President of the Board of Management of one Panikampalayam Primary Agricultural Co-operative Society Ltd, wherein one Subramaniam working as the Private Secretary of the Society has committed some irregularities, for which, the petitioner no way responsible. Now, no proceeding is pending against the petitioner either under Section 87 or under Section 90 of the Tamil Nadu Co-operative Societies Act, but the first respondent

erroneously attached the petitioner's property under Section 167 (2) of the Act.

3. Earlier, notice was ordered to the respondents to find out whether any proceeding is pending against the petitioner. Today, when the matter is came up for hearing, Mr.L.P.Shanmugasundaram, the learned Special Government Pleader appearing for the respondents submitted that only an enquiry under Section 81 of the Tamil Nadu Co-operative societies Act is pending, and so far no enquiry report has been filed by the Enquiry Officer.

4. The proceedings under Section 167(2) of the Tamil Nadu Co-operative Act can be initiated only in cases where a proceeding is pending under Section 87 or under Section 90 or under Section 130 or under Section 139 of the Tamil Nadu Co-operative Societies Act. Admittedly, now no such proceeding is pending against the petitioner, only an enquiry under Section 81 of the Act is pending. It is well settled that the enquiry under Section 81 of the Act is only a kind of investigation into the constitution, working of financial conditions of a registered society or any alleged misappropriation, fraudulent retention of money or property, breach of trust or any mismanagement in relation to the society. Only based on the report filed under Section 81 of the said Act, further proceedings can be initiated against any persons involved in any act of misconduct. Admittedly, in the present case, only the enquiry is pending and no report has been filed implicating the petitioner for any of the irregularities.

5. In the above said circumstances, the proceedings under Section 167(2) of the Tamil Nadu Co-operative Societies Act cannot be initiated at this stage. Therefore, the impugned order passed by the first respondent dated 09.08.2018 is liable to be set aside. Accordingly, set aside. It is always open to the respondent to initiate any such proceedings based on the enquiry report filed under Section 81 of the Tamil Nadu Co-operative Societies Act.

6. With the above observations, the writ petition is disposed of. No costs. Consequently, connected WMP is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rrg/arb

To

- 1.The Deputy Registrar of Co-operative Societies,  
Erode Circle, Erode,  
Erode District.
- 2.The Supervisor,  
Erode District Central Co-operative Bank,  
Erode, Erode District.
- 3.The Co-operative Sub Registrar/Field Officer,  
Perundurai,  
Erode District.

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.4527  
+1cc to Mr.C.E.Pratap, Advocate, S.R.No.3860  
+1cc to the Government Pleader, S.R.No.4011.

W.P.No.23196 of 2018

VSNI (CO)

rrs 26/02/2019



WEB COPY