

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.08.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Writ Petition No.23505 of 2019
and

W.M.P.Nos.23298 and 23299 of 2019

K.R.Aldurai .. Petitioner

/versus/

1.The Sub Registrar/Deputy Registrar(crime) Office,
Deputy Registrar of Co-operative Societies,
Additional Collectorate Buildings,
Finger Post, Ooty.

2.The Deputy Registrar,
Deputy Registrar of Co-operative Societies,
Additional Collectorate Buildings,
Finger Post, Ooty.

3.The Joint Registrar,
Deputy Registrar of Co-operative Societies,
Additional Collectorate Buildings,
Finger Post, Ooty.

4.N.Raman,
Father name not known
Vice President of
The Nilgiri Co-operative Marketing Society Ltd.
Udagamandalam.

5.S.kannapiran

6.T.Murugan

7.M.Sivalingan

8.K.Thangavelu

9.Ponjayaseelan

10.Tmt.Radhika

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11.Tmt.S.Sarswathi

12.T.Usha

13.K.Saroja

Father name not known

Respondents 5 to 13 are

Board of Director,

The Nilgiris Co-operative Marketing

Society Ltd.,

Udagamandalam.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the file of the 1st respondent in proceedings No.Nil dated 03.08.2019 seeking to convene the meeting on 09.08.2019 for the purposes of moving a "no confidence motion" as against the petitioner for the alleged acts of getting the shops for auction that are under the control of the society and quash the same as illegal incompetent and wholly without jurisdiction.

For Petitioner :Mr.V.Raghavachari

For Respondent :Mr.Bala Ramesh
for R1 to R3

ORDER

By consent the writ petition itself is taken up for final disposal at the admission stage itself.

2. The prayer in the writ petition is to issue a Writ of Certiorari to call for the records on the file of the 1st respondent in proceedings No.Nil, dated 03.08.2019 seeking to convene the meeting on 09.08.2019 for the purposes of moving a "No Confidence Motion" as against the petitioner for the alleged acts of getting the shops for auction that are under the control of the society and quash the same as illegal incompetent and wholly without jurisdiction.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for respondents 1 to 3.

4. The main attack on the impugned order, which proposed to convene the special meeting to pass No Confidence Motion against the petitioner is that, before convening the meeting, the procedure contemplated under Rule 62 of the Tamil Nadu Co-operative Societies Rules has not been complied.

5. The learned counsel appearing for the respondents 1 to 3 submits that on receipt of the complaint from majority of the members to convene the special meeting to move the No Confidence Motion, the copy of the complaint was sent to the petitioner through RPAD and the same was received by him on 18.07.2019. Thereafter, the Co-operative Sub Registrar has fixed the date of special meeting to move the No Confidence Motion on 09.08.2019.

6. As per Rule 62 of the Tamil Nadu Co-operative Societies Rules, any request by more than 2/3rd members to convene the special meeting to remove the office bearers is to be considered within a period of 30 days and the meeting should be convened, after affording opportunity to the said officer bearers.

7. As far as this case is concerned, the learned counsel appearing for the respondents 1 to 3 would submit that the complaint from eight members was received on 09.07.2019. Immediately that was forwarded to the petitioner calling for his explanation within seven days and the said communication dated 15.07.2019 was received by the petitioner on 18.07.2019. Since no explanation was received from the petitioner, the Co-operative Sub Registrar has fixed the date of special meeting as 09.08.2019, which is well within the time frame and procedure contemplated under Rule 62 of the Tamil Nadu Co-operative Societies Rules.

8. The objection raised by the learned counsel appearing for the petitioner is that the alleged show cause notice was not received by the petitioner and the signature found in the postal acknowledgement is not that of the petitioner, but somebody has signed and affixed the seal of the Society.

9. In the said circumstances, this Court is of the

opinion that fair opportunity should be given to the petitioner to explain before convening the special meeting to move No Confidence Motion against the petitioner. Hence, the respondents are directed to serve the show cause notice on the petitioner in-person. [Advance copy is served to the learned counsel appearing for the petitioner today in Court]. Within 7 days from the receipt of the show cause notice, the petitioner shall give his explanation. On receipt of the explanation or on expiry of 7 days, the respondents shall decide and proceed further.

10. In view of the above fact, direction stand extended by excluding the days between 15.07.2019 (the date of the show cause notice) and the date, on which the fresh show cause notice to be served, shall stand excluded for reckoning the 30 days limitation prescribed in Rule 62. Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

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To

1.The Sub Registrar/Deputy Registrar(crime) Office,
Deputy Registrar of Co-operative Societies,
Additional Collectorate Buildings,Finger Post, Ooty.

2.The Deputy Registrar,
Deputy Registrar of Co-operative Societies,
Additional Collectorate Buildings,
Finger Post, Ooty.

3.The Joint Registrar,
Deputy Registrar of Co-operative Societies,
Additional Collectorate Buildings,
Finger Post, Ooty.

+1cc to Mr.V.Raghavachari , Advocate SR.No. 68397

+1 cc to Government Pleader Sr.No. 69348

W.P.No.23505 of 2019

and

W.M.P.Nos.23298 and 23299 of 2019

A.SK(25/09/2019)