

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD) No.17610 of 2019
and W.M.P. (MD) No.14078 of 2019

T.A.S.Kaleelul Rahman

.. Petitioner

/versus/

- 1.The Regional Deputy Registrar (Housing),
Trichy Region,
16/3, Samathu School Street,
Khaja Nagar,
Mannarpuram,
Tiruchirapalli.
- 2.The Co-operative Sub Registrar/Section 82 Inspection Officer,
R 786, Thiruchirapalli Co-operative House Construction
Society Ltd.,
Makkal Mandram,
Colony Main Road,
Thillai Nagar,
Tiruchirapalli.
- 3.The Administrative/Co-operative Sub Registrar,
R 786, Thiruchirapalli Co-operative House Construction
Society Ltd.,
Makkal Mandram,
Colony Main Road,
Thillai Nagar,
Tiruchirapalli.
- 4.R.M.S.Vinayagar,
Regional Deputy Registrar (Housing),
Trichy Region,
16/3, Samathu School Street,
Khaja Nagar,
Mannarpuram,
Tiruchirapalli-20.
- 5.R.Rajasekaran
Co-operative Sub Registrar/Section 82 Inspection Officer,
R 786, Thiruchirapalli Co-operative House Construction
Society Ltd.,

Makkal Mandram,
Colony Main Road,
Thillai Nagar,
Tiruchirapalli.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of Writ of Certiorari, calling for the records pertaining to the impugned summon issued by the 2nd respondent dated 03.08.2019 and quash the same.

For Petitioner : Mr.D.Sadiq Raja

For Respondents : Ms.T.Girija, GA for R1 & R2

Mr.S.Giritharan for R3

O R D E R

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. The petitioner being an elected President of the third respondent society aggrieved by the show cause notice issued under Section 82 of the Tamil Nadu Co-operative Societies Act, has filed this writ petition on the following grounds:-

"b. The impugned summons issued by the 2nd respondent is not in consonance with Section 82 of Tamil Nadu Co-operative Societies Act, 1983. As per the Act, the Registrar may order inspection and investigation by two modes. One on his own motion, another on the application of a creditor of a registered society. The reading of the summons would disclose that the 82 inspection has been ordered by the 1st respondent. No reference is made as to the order of the 1st respondent in the impugned summons. No reference also made as to whether the summon was issued on his own motion or on the application of a creditor of a registered society. Thus, on this ground the impugned summons are want of material particulars as to attract Section 82 of the Act."

3. The case of the petitioner is that the petitioner's Society carries a checkered history. Earlier the society promoted a lay out at Trichy in the name of "Anna Nagar Layout" and sold it to various persons. This happened between some where in the year 1964 to 1974. Thereafter, in spite of bar of alienating society properties to non members without prior approval of the Registrar of Co-operative Societies,

certain sale deeds were executed by the Special Officer as well as the elected bodies which came to the light of the higher officials and enquiry was initiated. As far as the petitioner is concerned he and the other elected Board members effected two sale deeds in spite of status quo order passed by this Court in W.P.No.14398 of 2017. Hence, the resolution passed by the petitioner as President on 03.10.2018 to register two sites to the non member of the society against the instructions under G.O.Ms.No.224 Housing and Urban Development Department dated 27.11.2009 prompted the respondent to issue show cause notice to the petitioner, calling upon him to explain why action should not be taken against him and the Board should not be superseded. The said show cause notice was challenged by the petitioner in W.P.No.33911 of 2018. Meanwhile the Board was superseded vide order dated 08.01.2019. The supercession was challenged by the petitioner in W.P.No.3715 of 2019. Pending this writ petition, the show cause notice which is impugned in this writ petition was issued calling upon the petitioner herein to appear before the Co-operative Sub Registrar and participate in the enquiry initiated under Section 82 of the Act. For the reasons which has been extracted above.

4. This Court in the earlier round of litigation in W.P.Nos.3715 of 2019 has discussed at length about the violation committed by the petitioner herein, alienating two sites of the society property in favour of non members. This Court has observed that the verification of records like share certificates, Board meetings and the results of the sale deeds indicate the Board presided over by the petitioner, has acted to prejudicial to the interest of the society and upheld the action taken by the respondent, appointing administrator. The present writ petition is against the issuance of show cause notice under Section 82 of the Tamil Nadu Co-operative Societies Act. The enquiry under Section 82 is pursuant to conveyance deeds registered in favour of non members. The Registrar is empowered to take action under Section 82 on his own motion or an application of any creditor of a society inspect or investigate or direct any person authorized by the society on its behalf. Here there is a specific case causing loss to the tune of Rs.3,72,000/- by executing to conveyance deeds in favour of non members. While so as an elected President and a party to the deeds in dispute, it is essential to enquire into the affairs of the society in detail after affording an opportunity to the persons concerned and the impugned notice is towards the said direction.

5. Therefore, this Court finds no error or illegality in the impugned notice. More so, when this Court had an opportunity to look into the records of the society in the earlier round of writ petition and found that there is prima facie material for enquiry into transfer of house sites

through conveyance executed by the petitioner in favour of Vigneswari and Hakeem were not in consonance with the society by-laws.

6. For the reasons stated above the writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(Insp cell)

//True Copy//

Sub Assistant Registrar

rpl

To

- 1.The Regional Deputy Registrar (Housing),
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- 2.The Co-operative Sub Registrar/Section 82
Inspection Officer, R 786, Thiruchirapalli
Co-operative House Construction Society Ltd.,
Makkal Mandram, Colony Main Road,
Thillai Nagar, Tiruchirapalli.
- 3.The Administrative/Co-operative Sub Registrar,
R 786, Thiruchirapalli Co-operative House
Construction Society Ltd.,
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+1cc to Mr.S.Giritharan, Advocate SR.88794

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SS(CO)
CB(22/11/2019)

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