



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

Monday, the Sixteenth day of December Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE P.D.AUDIKEVALU

WP No.34657 of 2019

AND WMP.NO.35412 OF 2019

1 S.SUBRAMANIAN [PETITIONER IN BOTH THE PETITIONS]
S/O.SUNDARAM, D.NO.23, ABIRAMI GARDEN,
CHINNATHIRUPATHI, SALEM DISTRICT.

Vs

1 THE DEPUTY REGISTRAR [RESPONDENTS IN BOTH THE PETITIONS]
CO-OPERATIVE SOCIETIES (HOUSING) O/O.THE
DEPUTY REGISTRAR OF CO-OPERATIVE (HOUSING)
SALEM REGION, D.NO.53, EAST GARDEN STREET,
OPP. TO SARADHA GIRLS

2 THE SPECIAL OFFICER,
S.1523, DR.AMBETHKAR SALEM CITY CO-OPERATIVE
HOUSE BUILDING SOCIETY LTD., D.NO.09, PAUL
PILLAI STREET FORT, SALEM 636 001. SALEM
TOWN AND DDISTRICT.

Writ petitions under article 226 of the Constitutions of India
praying that in these circumstances stated therein and in the
respective affidavits filed their with the High Court will pleased
to

(I) Issue a WRIT OF CERTIORARI or any other appropriate writ or
order direction in the nature of writ to call for the records of
impugned judgment and Decree dated 11/04/2019, made in
C.M.A.C.S.No.9 of 2012 on the files of Principal District Judge,
Salem, partly confirming the surcharge order of 1st respondent
dated 27/09/2019, passed in Na.Ka.No.1244/2008, and quash the said
impugned proceedings in WP No.34657 of 2019 AND;

(ii) To pass an order of interim stay of the operation of
impugned judgment and Decree dated 11/04/2019, made in
C.M.A.C.S.No.9 of 2012 on the files of Principal District Judge,
Salem, partly confirming the surcharge order of 1st respondent
dated 27/09/2019, passed in Na.Ka.No.1244/2008, dated 27/09/2012,
(IN WMP.NO.35412 OF 2019) pending disposal of the above writ
petition NO.34657 OF 2019 Respectively.



Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of S.UMAPATHY, Advocate for the petitioner and of MR.L.P.SHANMUGASUNDARAM SPECIAL GOVERNMENT PLEADER (CO-OP) on behalf of the Respondents the court made the following order:-

The order challenged in the Writ Petition has been passed by the Principal District Judge, Salem, as Co-operative Tribunal under Section 152 of the Tamil Nadu Co-operative Societies Act, 1983. The Hon'ble Supreme Court of India in **Life Insurance Corporation of India vs. Nandhini J. Shah** [(2018) 15 SCC 356] has held that judicial order of Civil Court is not amenable to Writ of Certiorari under Article 226 of the Constitution of India, but the same could be impeached in proceedings under Article 227 of the Constitution of India before the Jurisdictional High Court.

2. In view of the aforesaid legal position, Registry is directed to de-register the Writ Petition and return the papers to the Learned Counsel for the Petitioner so as to enable them to re-submit the same as Civil Revision Petition under Article 227 of the Constitution of India with necessary requirements as per the rules within a period of 15 days from the date of collecting papers from the Registry.

-sd/-

16/12/2019

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE DEPUTY REGISTRAR
CO-OPERATIVE SOCIETIES (HOUSING) O/O.THE
DEPUTY REGISTRAR OF CO-OPERATIVE (HOUSING)
SALEM REGION, D.NO.53, EAST GARDEN STREET,
OPP. TO SARADHA GIRLS

2 THE SPECIAL OFFICER,
S.1523, DR.AMBETHKAR SALEM CITY CO-OPERATIVE
HOUSE BUILDING SOCIETY LTD., D.NO.09, PAUL
PILLAI STREET FORT, SALEM 636 001.
SALEM TOWN AND DDISTRICT.

3. THE ASSISTANT REGISTRAR
WRIT SECTION, HIGH COURT MADRAS.

4 THE ASSISTANT REGISTRAR (AS)
HIGH COURT MADRAS.



WEB COPY

C.C. to S.UMAPATHY Advocate on payment of necessary charges

The Government Advocate, High Court, Madras - 104.

Order

in

WP No.34657 of 2019

AND WMP.NO.35412 OF 2019

Date :16/12/2019

From 26.2.2001 the Registry is issuing certified
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VC (06/01/2020)IT