

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2019

C O R A M

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

Writ Petition No. 33510 of 2018
and
M.P. Nos. 38889 & 38890 of 2018

1.R.Sridharan
2.S.Baskaran
3.N.Thiyagarajan
4.M.Santhanam
5.M.Ethiraj
6.P.Rajendran
7.A.Srinivasan
8.S.Muthukumar
9.S.Arumugam
10.J.Raja

... Petitioners

Vs.

1.The Deputy Registrar of Co-operative Societies
Tindivanam Circle, Tindivanam
Villupuram District.
2.The Enquiry Officer/ Co-operative Sub Registrar
CL.146, Kandhadu Primary Agricultural
Co-operative Credit Society
Kandhadu & Post - 604 303
Marakkanam,
Villupuram District.

... Respondents

PRAYER Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the entire records relating to the impugned enquiry report submitted by the 2nd respondent on 26.07.2018 and consequential order passed by the 1st respondent in his proceedings Na.Ka.2126/2018 Sa.Pa.1, dated 19.11.2018 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader[Co-op]

O R D E R

The notice dated 19.11.2018 issued under Section 87(1) of the Tamil Nadu Co-operative Societies Act [hereinafter referred to as 'the Act'] is under challenge in the present writ petition.

2.The notice itself says that the writ petitioners are at liberty to submit their explanations /objections in respect of the allegations set out in the impugned notice issued under Section 87(1) of the Act within a period of 15 days from the date of receipt of the notice. In stead of submitting their explanations / objections, the writ petitioners have chosen to file the present writ petition, challenging the said notice dated 19.11.2018 on the ground that such a notice is untenable. Contrarily, the writ petition itself is untenable on the ground that surcharge proceedings are initiated under Section 87 of the Act for the purpose of compensating the monetary loss occurred to the co-operative society. Against the notice no writ petition can be entertained, in view of the fact that after submission of the explanations by the writ petitioners, enquiry is to be conducted and a final order has to be passed by the authorities competent under Section 87 of the Act. Against the final order passed under Section 87 of the Act, an appeal lies before the Cooperative Tribunal under Section 152 of the Act. Thus, the writ petitioner has to approach the Co-operative Tribunal against the final order passed in the surcharge proceedings and no writ petition can be entertained by this Court under Article 226 of the Constitution of India. Contrarily, a show cause notice under Section 87 (1) of the Act cannot be a cause for the purpose of entertaining this writ petition. It is left open to the writ petitioners to participate in the process of enquiry by submitting their explanations /objections in respect of the allegations set out in the impugned notice issued under Section 87(1) of the Act. Intermittent intervention in the proceedings are certainly not preferable. The proceedings initiated are to be concluded in all respects and the same should reach its logical conclusion.

3.Accordingly, the writ petition is devoid of merits and deserves no consideration. Thus, the writ petition stands dismissed. However, there shall be no orders as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

may
To

1.The Deputy Registrar of Co-operative Societies
Tindivanam Circle, Tindivanam
Villupuram District.

2.The Enquiry Officer/ Co-operative Sub Registrar
CL.146, Kandhadu Primary Agricultural
Co-operative Credit Society
Kandhadu & Post - 604 303
Marakkanam, Villupuram District.

+1cc to Mr.L.P.Shanmugasundaram , Advocate SR.No. 31422

+1cc to Mr.C.Prakasam , Advocate SR.No. 31706

+1 cc to Government Pleader SR.NO. 31968

W.P. No. 33510 of 2018

A.SK(29/04/2019)



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