



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
and

WEB COPY

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) No.14101 of 2019

and

W.M.P. (MD) No.10577 of 2019

Sundaramoorthy

: Petitioner

Vs.

1. The Registrar,
Tamil Nadu Co-operative Societies,
Chennai.
2. The Joint Registrar,
Joint Registrar of Co-operative Society,
Virudhunagar District.
3. The Election Officer / co-operative Sub Registrar,
Q 847, Srivilliputhur Rural Development Bank
and Co-op,
Primary Agricultural Society Limited,
O/o. Deputy Registrar of Co-operative Societies,
Srivilliputhur, Virudhunagar District.
4. The Special Officer,
Q 847, Srivilliputhur Rural Development Bank
and Co-op,
Primary Agricultural Society Limited,
Srivilliputhur, Srivilliputhur Taluk,
Virudhunagar District.
5. Subbulakshmi
6. Parameshwari
7. Latha
8. Muthiah
9. Ganesan
10. Radhakrishnan



11.Raja

12.Paramasivam

13.Muniyandi

14.Beemaraja

15.Thangamuthu

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the third respondent to conduct a fresh free and fair election for fourth respondent Society for this year of 2019, instead of keep retain the illegally elected Directors/Respondents 5 to 15 unopposed in the election process of 2018, on the basis of representation, dated 29.05.2019.

For Petitioner : Mr.T.Indrachithu

For R-1 to R-3 : Mr.K.Chellapandian
Additional Advocate General
assisted by

FOR R4 : Mr.V.R.Shanmuganathan
Special Government Pleader

O R D E R

[Order of the Court was made by **K.RAVICHANDRABAABU, J.**]

The petitioner seeks for Mandamus directing the third respondent to conduct a fresh and free election for the fourth respondent Society for the year 2019 instead of retaining the elected Directors / Respondents 5 to 15 unopposed in the election process of 2018, on the basis of representation, dated 29.05.2019.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondents 1 to 4.

3.It is seen that the election to the subject matter Society was conducted previously in the year 2018. It is also seen that the petitioner as one of the person, who filed nomination, has withdrawn his nomination later. However, such withdrawal was disputed by the petitioner. Therefore, the petitioner challenged the election by filing writ petition before this Court in W.P.(MD) No.12032 of 2018. The writ petition was referred to the one man committee, which in turn, passed an order by proceedings dated 29.01.2019 by giving a finding as follows:-



"The Committee has also gone through the signature found in the withdrawal form. According to this committee only a handwriting expert can decide whether the signature found in the withdrawal form and the Nomination form was that of the petitioner or not. As disputed question has arisen, this committee is of the view that we cannot decide the dispute and the petitioner is directed to approach the Registrar of Co-operative Societies under Section 90 of the Tamil Nadu Co-operative Societies Act. With this direction, the writ petition is closed."

4. Therefore, it is evident that the Committee itself was not in a position to decide the dispute raised by the petitioner with regard to the withdrawal of the nomination and on the other hand, the Committee has directed the petitioner to approach the Registrar of Co-operative Societies under Section 90 of the Tamil Nadu Co-operative Societies Act. It is stated that in pursuant to such direction, the petitioner has also approached the Registrar of Co-operative Societies by filing an appeal under Section 90 of the Act. If that be the case, it is for the petitioner to pursue his remedy in the appeal pending before the said authority under Section 90 of the Act. Without doing so, filing the present writ petition parallelly is not maintainable.

5. Accordingly, without expressing any view on the merits of the claim made by the petitioner, this writ petition is disposed of by granting liberty to the petitioner to work out his remedy under Section 90 of the Act in the appeal already by him. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (WRIT)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Registrar,
Tamil Nadu Co-operative Societies,
Chennai.
2. The Joint Registrar,
Joint Registrar of Co-operative Society,
Virudhunagar District.
3. The Election Officer / co-operative Sub Registrar,
Q 847, Srivilliputhur Rural Development Bank and Co-op,
Primaary Agricultural Society Limited,
O/o. Deputy Registrar of Co-operative Societies,
Srivilliputhur, Virudhunagar District.



4.The Special Officer,
Q 847, Srivilliputhur Rural Development Bank
and Co-op,
Primary Agricultural Society Limited,
Srivilliputhur, Srivilliputhur Taluk,
Virudhunagar District.

+1cc to M/S. D.SHANMUGARAJA SETHUPATHI,ADVOCATE , Sr.No.70805
+1cc to M/S. T.INDRACHITHU,ADVOCATE, Sr.No.71517
+1cc to M/S SPECIAL GOVERNMENT PLEADER, Sr.No. 71468

W.P.(MD)No.14101 of 2019

and

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BUC(02/07/2019)4P/8C