



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A(MD)No.791 of 2019
and
C.M.P. (MD)No.6958 of 2019

C.Muthukaruppaiah :Appellant/Petitioner

.vs.

- 1.The Joint Registrar of Cooperative Societies,
Commercial Tax Office Complex,
Mannarpuram, Race Course Road,
Tiruchirappalli - 2.
 - 2.The Deputy Registrar of Cooperative Societies,
Commercial Tax Office Complex,
Mannarpuram, Race Course Road,
Tiruchirappalli - 2.
 - 3.The Deputy Registrar/Managing Director,
Amaravathi Consumers Cooperative Wholesale
Stores Ltd.,
LNP Buildings, Post Box No.308,
No.1, Old Goods Shed Road,
Tiruchirappalli 620 002.
 - 4.Tmt.J.Palaneeswari,
The Deputy Registrar/Managing Director,
Commercial Tax Office Complex,
Mannarpuram, Race Course Road,
Tiruchirappalli - 2.
- : Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.11003 of 2015, dated 28.06.2019.

Prayer in WP(MD). 11003/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the order of the 2nd Respondent passed in Na.Ka. 1020/2015/Nu.Ku dated 21.04.2015 and the



consequent charge memo in Na.Ka. 2018/2015 Sa.Pa. dated 03.06.2015 and quash the same.

For Appellant

:Mr.V.O.S.Kalaiselvam

For R-1 & R-2

:Mr.M.Karuppasamy
Government Advocate

For R-3

: Mr.D.Sadiq Raja

JUDGMENT

[Judgment of the Court was delivered by K.RAVICHANDRABAABU, J.]

This writ appeal is directed against the order made in W.P.(MD) No.11003 of 2015, dated 28.06.2019. The appellant is the writ petitioner. He filed the above writ petition challenging the order of the second respondent, dated 21.04.2015 instituting an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act and the consequential charge memo, dated 03.06.2015. The Writ Court, after considering the matter in detail, dismissed the writ petition. Therefore, the present writ appeal is filed by the writ petitioner.

2.Heard the learned counsel appearing for the appellant; the learned Government Advocate appearing for the respondents and the learned counsel appearing for the third respondent and also perused the materials placed before this Court.

3.The writ petition was filed challenging two proceedings. One is in respect of an order instituting an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act. Perusal of the said order would show that it is not directed against any individual and on the other hand, the authority, who empowered under Section 81 of the said Act, ordered for such statutory enquiry to find out the correctness or otherwise of the allegations made against the affairs of the subject matter Co-operative Society. Therefore, as rightly pointed out by the Writ Court, no cause of action would arise for the petitioner to challenge the very initiation of the enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act.

4.The second order impugned in the writ petition is only a charge memo. The grounds raised against such charge memo are undoubtedly touching upon the merits of the charge and therefore, it goes without saying that this Court, at this stage, cannot go into the merits of the charge and the contention of the writ petitioner as against such charge memo. The petitioner, therefore, has to only face the enquiry and prove his innocence by producing the material evidence in the enquiry, if any.

5.Though a feeble attempt is made by the learned counsel for
<https://hcservices.ecourts.gov.in/hcservices/>



the writ petitioner as if the charge memo was issued with a mala fide intention, we do not find any substantiating material to support such contention. Inasmuch as the charge memo was issued by the competent authority and an enquiry is contemplated to enquire into the allegations made in the charge memo, it is for the writ petitioner to face the charge memo and participate in the enquiry. Without doing so, the petitioner has come forward to file the writ petition, which was rightly dismissed by the Writ Court. Therefore, we find no reason to interfere with the order of the writ Court.

6. Accordingly, the writ appeal deserves no merits and thus the same is dismissed. No costs. Consequently, connected Miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar (CS)

To

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+1 CC to M/s.SPL GP (SR-79694[F] dated 05/08/2019)

+1 CC to M/s.V.O.S.KALAISELVAM, Advocate (SR-79803[F] dated 05/08/2019)

W.A(MD)No.791 of 2019
02.08.2019

rj2

JMN(20.08.2019) 3P : 6C