



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.10368 of 2014

and

M.P. [MD]No.1 of 2014

WEB COPY

R.Lakshmanan

... Petitioner

Vs.

1.The Deputy Registrar (Housing),
Virudhunagar Division,
Virudhunagar.

2.The Enquiry Officer,
(Cooperative Sub Registrar),
MDAHS-106,
Manamadurai Taluk Cooperative Housing Society,
Manamadurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in Tha.Va.Va.1/2014-15, Na.Ka.No.1038/13 Sa.Pa. Dated 11.04.2014 to quash the same and consequently direct the second respondent to conduct fresh enquiry following principles of natural justice.

For Petitioner : Mr.N.Sundareshan

For Respondents : Mr.D.Muruganantham

Additional Government Pleader

O R D E R

The show cause notice issued under Section 87(1) of the Tamil Nadu Cooperative Societies Act, 1983 is under challenge in the present writ petition.

2.The writ petitioner was working as the Secretary of the Manamadurai Taluk Cooperative Housing Society. Based on the statutory enquiry report submitted under Section 81 of the Tamil Nadu Cooperative Societies Act, surcharge proceedings are initiated against the writ petitioner and the competent authority issued a show cause notice under Section 87(1) of the Tamil Nadu Cooperative Societies Act.

3.No writ petition can be entertained against the show cause notice in a routine manner. In the present case, the surcharge proceedings are initiated and the show cause notice was issued to



the writ petitioner. The petitioner instead of submitting his explanation / objection to the show cause notice has chosen to file this writ petition. The procedures to be followed in surcharge proceedings are that on receipt of the show cause notice under Section 87(1), the petitioner has to submit his explanation / objection and participate in the process of enquiry before the competent authority. The competent authority has to pass final orders in the surcharge proceedings under Section 87 of the Act.

4. Thereafter, if the writ petitioner is aggrieved from and out of the final order to be passed under Section 87 has to prefer an appeal under Section 152 of the Tamil Nadu Cooperative Societies Act. The Principal District Judges are designated as Cooperative Tribunal. Thus, the writ petitioner against the final order of the surcharge proceedings has to prefer an appeal under Section 152 of the Act before the Cooperative Tribunal constituted. This being the procedures to be followed, the present writ petition filed challenging the surcharge notice cannot be entertained.

5. This apart, the writ petition cannot be decided on merits as the disputed facts are to be adjudicated by the competent authority with reference to the original documents and by adducing evidences if required. Such exercise cannot be undertaken by the High Court under Article 226 of the Constitution of India. Thus, it is left open to the writ petitioner to submit his explanation / objection to the show cause notice and participate in the enquiry.

6. In view of the fact that the present writ petition is filed challenging the show cause notice issued under Section 87(1) of the Tamil Nadu Cooperative Societies Act, the writ petition cannot be entertained.

7. Accordingly, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar (CS)

MR



To

1.The Deputy Registrar (Housing),
Virudhunagar Division,
Virudhunagar.

2.The Enquiry Officer,
(Cooperative Sub Registrar),
MDAHSG-106,
Manamadurai Taluk Cooperative Housing Society,
Manamadurai.

+1 CC to M/s.N.SUNDARESHAN, Advocate (SR-82491[F] dated
20/08/2019)

+1 CC to M/s.SPL GP (SR-82874[F] dated 21/08/2019)

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