

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.11.2020

C O R A M

The HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

Writ Petition No.23709 of 2010  
(Through Video Conferencing)

Nallur Consumers Welfare Council  
Rep. by its President,  
N.Shanmugasundaram,  
NO.4/57, Thai Illam, Jay Nagar 1<sup>st</sup> Street,  
Kangeyam Road, Vijayapuram (Post),  
Tiruppur-641 606. ... Petitioner

vs

1. The Inspector General of Registration,  
The Office of the Inspector General of  
Registration, Santhome High Road,  
Chennai-600 028.
2. The District Registrar (Chits & Societies)  
The District Registrar's Office,  
P.N.Road, Tiruppur-641 602. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari calling for the records of the 1<sup>st</sup> Respondent herein pertaining to the sanction order passed against the Petitioner dated 23.03.2010 made in Order No.25537/I2/2007 as well as the earlier order dated 24.08.2009 made in Order No.38012/I2/09 and quash the same.

For Petitioner : Mr.P.M.Duraiswamy

For Respondents : Mr.T.M.Pappiah, Spl. G.P.

O R D E R

In this writ petition, the Sanction Orders for prosecution of the Petitioner Council are under challenge. The Inspector General of Registration granted sanction to prosecute the Petitioner in respect of receipt of a sum of Rs.10,000/- without remitting the same into the accounts of the Society. The other allegation in respect of which sanction was granted is the failure to conduct General Body Meetings for the years 2000-01, 2001-02, 2002-03 and 2003-04

and instead, creating false records to show the said meetings were held.

2. I heard Mr.Duraiswamy, the learned counsel for the Petitioner and Mr.T.M.Pappaiah, the learned Special Government Pleader for the Respondents.

3. The principal contention of the learned counsel for the Petitioner is that no enquiry was conducted before arriving at the conclusion that prosecution is warranted. He submits that the complaint was issued by a third party, who is not a member of the Society. He further submits that it is false to state that a sum of Rs.10,000/- was paid to the Society. As a matter of fact, the said amount was given to the President of the Petitioner council in his individual capacity. As regards the alleged failure to conduct Annual General Meetings, he referred to the resolutions for the year 2000-01, 2001-02 and 2002-03 to contend that the said allegation is false. He further submits that if he had been provided an opportunity of hearing, he would have placed necessary facts and documents before the Registrar so as to convince the authorities that consent for prosecution is not warranted. He further submits that two sanction orders dated 24.08.2009 and 23.03.2010 have been issued in respect of the very same alleged offences. For all these reasons, he submits that the impugned orders are liable to be set aside.

4. On the contrary, Mr.T.M. Pappiah, the learned Special Government Pleader submitted that the Petitioner admitted that he had received a sum of Rs.10,000/-, but had failed to account for the said amount in the accounts of the said Society. By referring to Paragraph-6 of the counter affidavit, he pointed out that the Petitioner had admitted that he committed misappropriation and requested the District Registrar, Thiruppur, by letter dated 11.09.2007, to forgive him for the said offence. Needless to say, this contention is refuted by the learned counsel for the Petitioner.

5. Upon considering the rival contentions, I find that it is an undisputed fact that no preliminary enquiry was conducted before granting sanction for prosecution either on 24.08.2009 or 23.03.2010. Section 52(2) of the Tamil Nadu Societies Registration Act, 1975 (the TN Societies Registration Act) confers power on the Inspector General of Registration or an Officer not below the rank of the Deputy Inspector General of Registration to grant sanction for prosecution. On the facts of the instant case, it appears that such sanction for prosecution was granted entirely on the basis of the complaint by a third party. In my view, the principles of natural justice require that a preliminary enquiry should be conducted before granting sanction for prosecution, especially under provisions such as Sections 19

and 46 of the TN Societies Registration Act and such requirements may be read into Section 52(2), so as to satisfy the ends of justice. On this limited ground, the impugned orders dated 24.08.2009 and 23.03.2010 are hereby set aside. Needless to say, it is open to the Respondents to conduct a preliminary enquiry by providing a reasonable opportunity to the Petitioner and thereafter decide as to whether the sanction for prosecution is warranted.

6. This writ petition is disposed of on the above terms. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kal

To

1. The Inspector General of Registration,  
The Office of the Inspector General of  
Registration, Santhome High Road,  
Chennai-600 028.

2. The District Registrar (Chits & Societies)  
The District Registrar's Office,  
P.N.Road, Tiruppur-641 602.

+1cc to the Government Pleader SR.37968

Writ Petition No.23709 of 2010

PVS (CO)  
CB(06/01/2021)

सत्यमेव जयते

WEB COPY