

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 08.07.2020

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.Nos.8875 & 8877 of 2020

and

W.M.P.Nos.10782, 10785, 10787 & 10788 of 2020

Thyalnayaki ...Petitioner in W.P.No.8875 of 2020

Manimaran ...Petitioner in W.P.No.8877 of 2020

Vs.

1.The Deputy Registrar of Co-operative Societies,
Mayiladuthurai, Having Office at
Deen Plaza, Near State Bank,
Mayiladuthurai - 609 001.
Nagapattinam District.

2.The Sub Registrar of Co-operative Societies(Cases)
Mayiladuthurai cum Sec.81 Enquiry Officer,
Having Office at
Deen Plaza, Near State Bank,
Mayiladuthurai - 609 001.
Nagapattinam District.

3.The Inspector of Police,
CBCID - Cyber Crimes,
Old Commissioner of Police Office Complex,
Egmore, Chennai.

...Respondents in both Wps

Common Prayer:

Writ Petitions filed under Section Article 226 of the Constitution of India praying Writ of certiorari, calling for the records of the second respondent in his proceedings (Nil) dated 14.03.2019, insofar as it is against the petitioner is concerned and consequential surcharge proceedings of first respondent in R.C.No.773/2019 Sa.Pa dated 09.10.2019 and quash the same.

For Petitioners : Mr.S.Sounthar
(in both the WPs)

For Respondents : Mr.D.Venkatachalam,A.G.P.

COMMON ORDER

The matter is taken up through Web hearing.

2. These writ petitions are filed seeking the following prayer:

"To call for the records of the second respondent in his proceedings (Nil) dated 14.03.2019, insofar as it is against the petitioner is concerned and consequential surcharge proceedings of first respondent in R.C.No.773/2019 Sa.Pa dated 09.10.2019 and quash the same."

3. The writ petitions are filed questioning the Surcharge proceedings dated 09.10.2019 initiated by the first respondent under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. According to the learned counsel appearing for the petitioners, the proceeding suffers from want of jurisdiction as there was no wilful negligence on the part of the petitioners. The learned counsel would further submit that unless there is a finding of fact in that regard, the question of initiating Surcharge proceeding does not arise at all.

4. On the above lines, the learned counsel attempted to draw the attention of this Court to the factual aspects which culminated in the initiation of the Surcharge proceedings against the petitioners.

5. This Court is unable to appreciate as to how this Court, exercising its extraordinary jurisdiction under Article 226 of the Constitution of India, can enter into the factual areas of controversy and appreciate the present challenge of the petitioners in these writ petitions.

6. It is only initiation of Surcharge proceedings and it is always open to the petitioners to put forth all their contentions, including the aspect of jurisdiction, before the authority and only when final order is passed, in pursuance of the proceedings, a cause of action may arise for resorting to any legal remedy. At this stage, it is not open to the petitioners to approach this Court under Article 226 of the Constitution of India and seek to stall further proceedings under the provisions of the Co-operative Societies Act. Certainly, it is not for this Court to appreciate the factual

submission in order to intervene in favour of the petitioners at this preliminary stage. In such view of the matter, these writ petitions are not maintainable as the same are premature and misconceived.

7. Therefore, the writ petitions are dismissed. No costs. Consequently the connected miscellaneous petitions are closed.

msh/mrm

Sd/-
Assistant Registrar(AD I)

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Registrar of Co-operative Societies,
Mayiladuthurai, Having Office at
Deen Plaza, Near State Bank,
Mayiladuthurai - 609 001.
Nagapattinam District.
2. The Sub Registrar of Co-operative Societies
Mayiladuthurai cum Sec.81 Enquiry Officer,
Having Office at
Deen Plaza, Near State Bank,
Mayiladuthurai - 609 001.
Nagapattinam District.
3. The Inspector of Police,
CBCID - Cyber Crimes,
Old Commissioner of Police Office Complex,
Egmore, Chennai.

W.P.Nos.8875 and 8877 of 2020

A.SK(04/08/2020)

WEB COPY