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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.NO.8849 OF 2020

AND

WMP.NOS.10750, 10753 AND 10754 OF 2020

1.J.Sampath,  
2.S.Sundaramoorthy,  
3.K.Velu,  
4.A.Shankar,  
5.S.Kalaivani.

... Petitioners

Vs.

The Assistant Director,  
Handlooms and Textiles,  
No.1165, Thendral Nagar,  
Main Road, Vengikal,  
Thiruvannmalai-606 604.  
Thiruvannamalai District.

... Respondent

PRAYER:

Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.637/2017/P, dated 04.06.2020 and quash the same.

For Petitioners : Mr.C.Prakasam

For Respondent : Ms.T.Girija  
Additional Government Pleader

O R D E R

Ms.T.Girija, learned Additional Government Pleader takes notice for the respondent. With the consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

2.This writ petition has been filed challenging the impugned show cause notice issued by the respondent on 04.06.2020.



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3.The case of the petitioners is that the Society passed a resolution in the year 2018 resolving to allot housing plots to the members of the Society. Five plots were allotted to the petitioners. In the year 2020, the Society passed another resolution whereby it was decided to make a request to the respondent to accept the guideline value of the property and execute sale deeds in favour of the petitioners. It is the further case of the petitioners that the request made by the petitioners is kept pending by the respondent and in the meantime, the impugned show cause notice has been issued by the respondent calling upon the petitioners to show cause as to why proceedings under Section 88(1)(A) of the Co-operative Societies Act should not be initiated for superceding the Society. Aggrieved by the same, the present writ petition has been filed before this Court.

4.Mr.C.Prakasam, learned counsel appearing on behalf of the petitioners submitted that the grounds on which the notice has been issued is totally unsustainable. The learned counsel submitted that the housing plots have already been allotted to all the members including the petitioners in the year 2018 and till the year 2020, the request made by the petitioners was kept pending by the respondent and no sale deed was executed in favour of the petitioners in spite of offering to pay the guideline value and show cause notice has been issued with ulterior motives.

5.The learned Government Advocate appearing on behalf of the respondent submitted that the petitioners without submitting their explanation cannot directly approach this Court by filing a writ petition since the respondent is vested with the power and jurisdiction to issue the show cause notice. Therefore, the learned counsel sought for dismissal of the writ petition.

6.This Court has carefully considered the submissions made on either side and materials available on records.

7.This Court does not want to go in to the merits of the case that was projected by either side. A writ petition as against the issuance of a show cause notice can be entertained only where the authority concerned has issued the same without jurisdiction or where it has been issued with premeditation or it is only illusory. In the present case, the petitioners have not questioned the power and jurisdiction of the respondent and they have not taken the ground of malafides even in the affidavit. The show cause notice cannot be interfered on the basis of the merits of the case since it will involve appreciation of facts. This position of law has been clearly stated by the Hon'ble Supreme Court in the case of Siemens Ltd., Vs. State of Maharashtra reported in 2007 (1) CTC 844 and in



the case of Union of India Vs. Vicco Laboratories reported in 2008 (2) CTC 511.

8.The petitioners will have to necessarily give their explanation for the show cause notice and the same should be considered by the respondent and a decision should be taken in accordance with law. This Court does not find any ground to interfere with the show cause notice issued by the respondent.

9.In the result this writ petition is disposed of with a direction to the petitioners to give their explanation to the respondent for the show cause notice dated 04.06.2020, within a period of four weeks from today.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Assistant Director,  
Handlooms and Textiles,  
No.1165, Thendral Nagar,  
Main Road, Vengikal,  
Thiruvannmalai-606 604.  
Thiruvannamalai District.
2. The Government Pleader,  
High Court, Madras.

W.P.No.8849 of 2020  
and  
WMP.Nos.10750, 10753 and 10754 of 2020

MR(CO)  
CS/13/07/2020