



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

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WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)Nos.9144 and 9789 of 2020
and
W.M.P. (MD)Nos.8364 & 8788 of 2020

Braind Louis

... Petitioner in both W.Ps.

Vs.

- 1.The Deputy Registrar of Co-operative Societies,
Palace Road,
Thuckalay, Kalkulam Taluk,
Kanyakumari District.
- 2.The Sub Registrar / Field Officer of Co-operative Societies,
Thuckalay,
Kanyakumari District. ...1st and 2nd Respondents in both W.Ps.
- 3.C.Durlesly ... 3rd respondent in W.P(MD)No.9144 of 2020
(R3 impleaded vide Court
order dated 24.08.2020 in W.M.P.(MD)No.8609 of 2020)

Prayer in W.P.(MD)No.9144 of 2020: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records on the file of the first respondent pertaining to its proceeding bearing No.1532/2019/Sa.Pa, dated 16.04.2020 and the consequential notice of the second respondent, dated 30.07.2020 and to quash the same as illegal .

Prayer in W.P.(MD)No.9789 of 2020: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records on the file of the second respondent pertaining to its notice under Rule 62(3) of Tamilnadu Cooperative Societies 1983 & 1988, dated 12.08.2020 and to quash the same as illegal.

For Petitioner: Mr.S.C.Herold Singh

For R1 & R2 : Mr.M.Rajarajan
Additional Government Pleader

For R3 : Mr.T.Cibichakravathy



COMMON ORDER

Heard the learned counsel on either side.

2.The petitioner was elected as the president of Y-178, Eraviputhurkadai Primary Agricultural Co-operative Credit Society. The board comprises totally 11 members. No Confidence Motion was sought to be moved against the petitioner herein. When a requisition was given on 29.05.2019, the first respondent herein issued notice to the petitioner calling for his explanation. The petitioner moved this Court by filing W.P.(MD)No.13451 of 2019 and obtained interim order. The said writ petition was dismissed on 30.09.2019. However, liberty was given to the petitioner to offer his explanation in response to the show cause notice. Thereafter, two orders dated 22.11.2019 and 20.01.2020 came to be passed. Both orders were put to challenge in W.P.(MD)No.413 and 1462 of 2020. By order dated 04.03.2020, both the writ petitions were allowed and the orders impugned therein were set aside. The matter was remitted to the file of the first respondent herein who was mandated to pass final orders on or before 15.04.2020. The first respondent by order dated 16.04.2020 directed the special meeting of the executive committee to be convened to take a call on the No Confidence Motion moved against the petitioner herein. Thereafter, nothing happened. After Thiru.C.Durlesly filed a writ petition before this Court in W.P.(MD) No.811 of 2020, the first respondent issued notice stating that the meeting will be convened on 07.08.2020.

3.When the writ petition was taken up for hearing, the learned Government Advocate stated that on 07.08.2020, the meeting would definitely be conducted and that it will not be adjourned for any reason. Even though this Court had made it clear that the meeting shall be convened without fail, it appears that no meeting was convened on 07.08.2020. The meeting was eventually convened on 20.08.2020. On the said date, out of eleven members, nine members were arrayed against the petitioner herein. Since the overwhelming majority of the board voted against the petitioner and in favour of the No Confidence Motion, the petitioner came to be removed on the same date.

4.In the mean while, both these writ petitions had been filed. In these writ petitions, the proceedings dated 16.04.2020 as well as consequential notices dated 30.07.2020 and 12.08.2020 had been challenged.

5.The petitioner's counsel places reliance on the decision reported in **[2001 (1) CTC 279, (V.Kuppanna Vs. The Deputy Registrar of Cooperative Societies) and 2015 (2) CTC 52, Thanga Kathiravan Vs. The Deputy Registrar of Cooperative Societies]**. According to him, the removal is not in accordance with Rule 62(3) of the Tamil Nadu



Co-operative Society Rules, 1988. The said Rule reads as under:-

"62. Removal of an elected office bearer

(3)As soon as such a requisition is received, the Registrar shall communicate a copy of the requisition to the office-bearer concerned, calling upon him to make his representations, if any, within such time as may be specified by him. The Registrar shall, within thirty days from the date of receipt of such requisition arrange to convene a special meeting of the board of the society, for consideration of the resolution expressing no confidence in the officer-bearer for which not less than three clear days' notice shall be given. A copy or gist of the requisition and of the representation, if any, received from the office-bearer concerned shall also be sent to the members along with the notice for the special meeting of the board."

6.The Core argument of the petitioner's counsel is that if the special meeting is not convened within 30 days from the date of receipt of the requisition for moving No Confidence Motion, the entire proceedings have to be nullified. There is no doubt that both the aforesaid decisions are in favour of the contentions advanced by the petitioner's counsel. Now the only question that arises for consideration is whether that can be pressed into service considering the facts and circumstances of the case.

7.As rightly contended by the contesting respondent and the learned Additional Government Pleader for the official respondents, Rule 62(3) will not come to rescue of the petitioner herein.

8.This is for more than one reason. The requisition was received as early as on 21.05.2019. If the petitioner had kept quiet and if the authority had not convened the meeting within 30 days thereafter, certainly, the petitioner's argument will have legs to stand on. But the petitioner filed a writ petition before this Court and obtained an interim order and saw to it that the meeting was not convened within 30 days. Thereafter, the petitioner had been successively and some time successfully litigating before this Court. In the mean while, COVID-19, intervened and the entire nation has been under lock down. The Hon'ble Supreme Court, by *Suo motu* order dated 25.03.2020, had directed that there will be a general extension of the limitation period. I can definitely derive inspiration from the said direction issued by the Hon'ble Supreme Court. Therefore, taking note of the conduct of the petitioner in ensuring that the meeting could not take place within the statutorily stipulated time and in view of the intervention of COVID-19, I am of the view that the petitioner's argument has to be rejected.



9.It is well settled that a person cannot take advantage of his own wrong. I do not for a moment suggest that the petitioner committed any wrong by filing writ petitions before this Court. Far from it, but then, the petitioner cannot take advantage of his own conduct. The petitioner saw to it that the authority could not convene the meeting within the stipulated period of 30 days. Therefore, the petitioner has to necessarily exit. He was rightly removed. I may incidentally remark democracy is basically a game of numbers. The board comprises 11 members. On the fateful day i.e., 20.08.2020, nine stood on the opposite side. Of-course, in Mahabharatha, a five member team could win over a 100 member team. But this is not Mahabharatha. This is democracy. Therefore, the petitioner not commanding the majority has to necessarily exit gracefully. There is no merit in the writ petitions. Both the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Deputy Registrar of Co-operative Societies,
Palace Road, Thuckalay,
Kalkulam Taluk, Kanyakumari District.
- 2.The Sub Registrar / Field Officer of Co-operative Societies,
Thuckalay, Kanyakumari District.

+1 CC to M/s.Special Govt.Pleader (SR-16390[F] dated 09/09/2020)
+1 CC to M/s.T.Cibichakraborty, Advocate (SR-16454)

W.P. (MD)Nos.9144 and 9789 of 2020
and
W.M.P. (MD)Nos.8364 & 8788 of 2020
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