

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.05.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.11690 of 2021 and
WMP No.12446, 12447 and 12448 of 2021

Tapovan Senior Citizens Foundation,
Registration No.33/2008 (In liquidation),
Tapovan Complex, Kuppanur Post,
Coimbatore - 641010,
rep. by its Secretary Mr.R.Subramanian. ... Petitioner

Vs.

- 1.The Inspector General of Registration,
No.100, Santhome High road, Chennai 600 028.
- 2.The District Registrar (Administration)
Deputy Inspector General of Registration Grade,
District Collectorate Campus, Coimbatore 641 018.
- 3.The Sub Registrar, Thondamuthur,
Coimbatore 641 109. Respondents

Prayer Writ Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus or any other writ, order or direction in the nature of writ calling for the records of the respondents, particularly that of the second respondent dated 10.03.2021 bearing reference number Na Ka 1470/A2/2021 and bearing reference under Na.Ka.3999/A2/2021 dated 21.04.2021 and that of the third respondent bearing reference Na.Ka.97/2021 dated 26.04.2021 and quash the same as illegal, unlawful, without jurisdiction and ultra vires and consequently direct the first respondent to dispose the appeal filed by the petitioner dated 23.04.2020 against the order dated 16.03.2021 within a time to be fixed by this court.

For Petitioner :Mr.CG. Kumar

For Respondents :Mr.T.M.Pappiah, Spl.Gov.Pleader

O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus praying to quash the impugned orders dated 10.03.2021 and 21.04.2021 passed by the second respondent and the impugned order dated 26.04.2021 passed by the third respondent and also directing the first respondent to dispose the appeal filed by

the petitioner dated 23.04.2020 against the order dated 16.03.2021 within a time to be fixed by this court.

2. The petitioner's society was dissolved by the orders dated 16.03.2020 passed by the second respondent. As against the above said order of dissolution, the petitioner filed an appeal before the first respondent in April 2020 and the said appeal is still pending and yet to be disposed of.

3. However, in the meanwhile, i.e., during the pendency of the appeal, the second respondent appointed the third respondent as liquidation officer and subsequently various proceedings have been issued, where, the second respondent has given clarification and instructions to the third respondent to proceed with the liquidation process, unmindful of the appeal filed by the petitioner is pending before the first respondent.

4. Therefore, challenging the order dated 10.03.2021 passed by the second respondent and also against the subsequent proceedings issued by the second and third respondents, the petitioner has moved the present writ petition with the aforesaid prayer.

5. Heard the learned counsel for the petitioner, who reiterated the same and would further add that, once the appeal has been filed before the first respondent, unless and until, it is decided one way or other, no further proceedings could be passed, however ultimately, if it is decided, as by that time, the liquidation officer now has been appointed through the impugned proceedings, since already various proceedings were issued to act upon, would be completing the job of the liquidation process and in that case it would be prejudicial to the interest of the society and therefore, the learned counsel for the petitioner seeks indulgence of this court to quash the impugned order dated 10.03.2021.

6. Mr.T.M.Pappiah, learned Special Government Pleader would submit that if any appeal, as claimed by the petitioner, has been filed before the first respondent as against the order of dissolution of the society, the said appeal would be decided on merits and final order would be passed by the first respondent within eight weeks. However, since the appeal is yet to be decided, where, there is no interim order of stay has been granted against the order of dissolution, probably, the second respondent would have acted upon, by issuing these orders, including the impugned order dated 10.03.2021.

7. I have considered the said submissions made by the learned counsel for the parties and have perused the materials placed before this court.

8. As has been rightly pointed out by the learned counsel for the petitioner, the appeal filed by the petitioner as early as in April 2020 since has not been disposed of and is kept pending for one year or more, in the meanwhile the second respondent ought not to have acted upon and if at all the orders passed by the second respondent, including the impugned order dated 10.03.2020 is given effect to and the liquidation officer, i.e. the third respondent is permitted to proceed with the liquidation proceedings, as rightly pointed out by him, it would be a case of fait accompli if ultimately the first respondent allows appeal filed by the petitioner.

9. In that view of the matter, this Court feels that the appeal pending before the first respondent can be disposed of at the earliest point of time frame that may be fixed by this Court and till such time, no precipitative action can be taken either by the second respondent or the third respondent towards the liquidation proceedings of the society in question.

10. Accordingly, this Court is inclined to dispose of this writ petition with the following orders

i) That there shall be a direction to the first respondent to consider the appeal filed by the petitioner in April 2020 as against the order of dissolution dated 16.03.2020 passed by the second respondent and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

ii) Till such disposal of the appeal, as indicated above, no precipitative action shall be taken either by the second respondent or by the third respondent, pursuant to the impugned order dated 10.03.2020 or in any other proceedings passed either by the second respondent or by the third respondent.

11. With these directions, this writ petition is disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar
(Vacation Officer)

//True Copy//

Sub Assistant Registrar

vum/mst

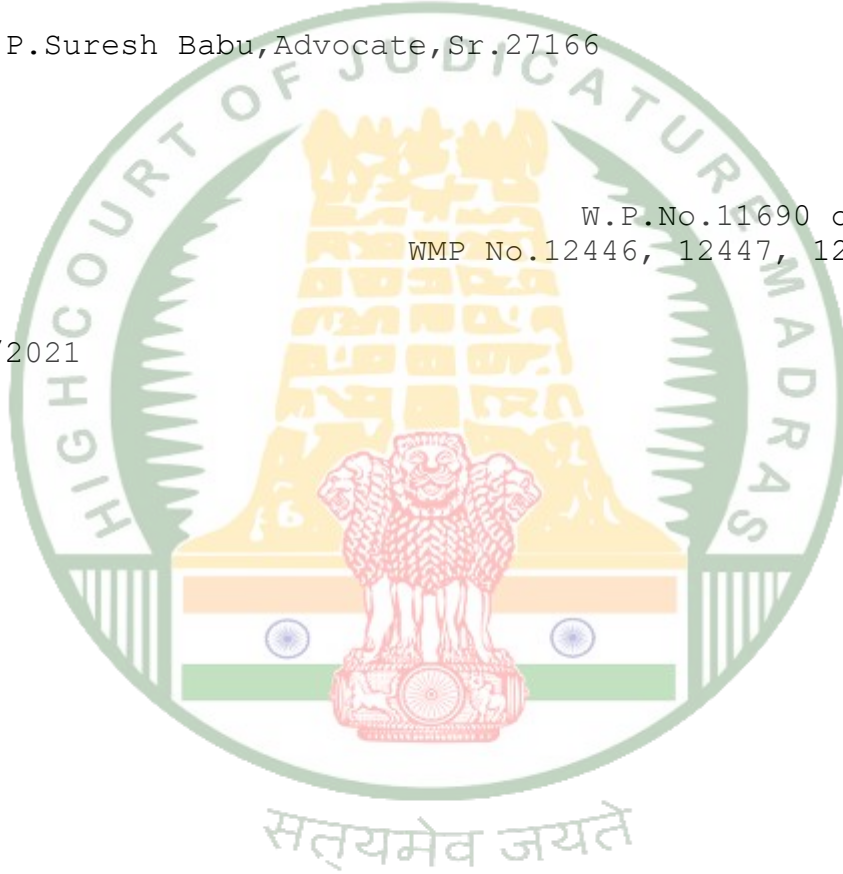
To

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+cc to Mr.P.Suresh Babu,Advocate,Sr.27166

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SR(CO)
baf 12/05/2021



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