

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 26.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.15619, 15620 of 2018 and
WMP No.18542, 18543 of 2018 and
WMP No.18544, 18545 of 2018

R.PremaPetitioner in both petitions

Vs.

1. The Registrar of Co-operative Societies (Housing),
No.48, Rithetan Road, Vepery,
Chennai-28.
2. The Deputy Registrar of Co-operative Societies (Housing)/
Surcharge Officer, Salem Circle, Salem.
...Respondents 1 & 2 in both Petitions
3. The Secretary, AA 182 Erode Co-operative House Building
Society, Erode.3rd Respondent in W.P. 15619/2018
- 4.The Secretary
SLM HSG 65
Steel Plant Employees Co- Operative House Building Society
Salem3rd Respondent in W.P. 15620/2018

PRAYER in W.P.No.15619 of 2018: Writ petition filed under Section 226 of the Constitution of India to issue a Writ of Certiorari or pass any other order or direction in the nature of writ by calling for the records with respect of the impugned proceedings of the second respondent herein dated 26.03.2018 in his proceedings in Na.Ka.3564/2008/E and quash the same.

PRAYER in W.P.No.15620 of 2018: Writ petition filed under Section 226 of the Constitution of India to issue a Writ of Certiorari or pass any other order or direction in the nature of writ by calling for the records with respect of the impugned proceedings of the second respondent herein dated 26.02.2018 in his proceedings in Na.Ka.3172/2008/E and quash the same.

In both writ petitions
For petitioner :Mr.R.Nalliyappan

For respondents :Mr.L.P.Shanmugasundaram
Spl. Gov. Pleader for R1 to R3

COMMON ORDER

Both the writ petitions have been filed to quash the impugned order dated 26.02.2018 and 26.03.2018 passed by the second respondent.

3. The writ petitioner has raised the ground in the writ petitions that the petitioner had given representations to the second respondent to furnish the surcharge enquiry reports and other documents as made in Section 81 of the Tamil Nadu Co-operative societies Act, but, without furnishing the documents, the second respondent had passed the impugned orders to pay the surcharge amount.

4. The Special Government Pleader has filed a detailed counter affidavit by denying the averments made in the writ petitions and also has stated that if the petitioner is aggrieved over the impugned surcharge orders passed by the second respondent, she is having an alternative remedy to file an appeal under Section 152 of the Tamil Nadu Co-operative societies Act before the appellate forum, but, without doing so, the petitioner has filed the present writ petitions, which is not maintainable.

5. It is also stated in the counter affidavit that the enquiry reports for the surcharge enquiry conducted on 25.01.2018 and 27.03.2009 under Section 81 of the TNCS Act were received by the petitioner on 25.01.2018 and 06.03.2018 respectively and also copy of the Day Book and Citta were received by the petitioner on 02.02.2018.

6. According to the Special Government Pleader, the documents sought for by the petitioner is not related to the surcharge proceedings initiated against her under Section 87 of the TNCS Act. However, with regard to the non furnishing of the documents, the second respondent has answered by way of filing the letter dated 23.04.2021, stating that the documents asked by the petitioner were served to her. as stated above.

7. Thus, this court is of the view that the respondents have complied with all the procedures as contemplated under the TNSC Act and Rules. But, the petitioner has denied the reception of the report and the statements of the respondents. However, as rightly pointed out by the Special Government Pleader, the petitioner is having an alternative remedy to file an appeal before the appropriate forum, under Section 152 of the TNSC Act. But without doing so, the petitioner has straight away filed the writ petitions before this court.

8. Inview of the above, the petitioner is directed to file an appeal before the appropriate forum under Section152 of the TNSC Act, within a period of six weeks from the date of receipt of a copy of this order, by raising all the grounds as urged in the present writ petitions.

9. With the above observation, the writ petitions in W.P.No.15619 of 2018 and W.P.No.15620 of 2018 are disposed of. No costs. The connected writ miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

mst

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SLM/HSG 65 Steel Plant Employees
Co- Operative House Building Society
Salem

+1 CC to The Special Government Pleader sr(CO-OP) sr 25657.

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GJ(CO)
SP(05/07/2021)