

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.18349 of 2021
& W.M.P. No. 19553 &19555 of 2021

K. Thanavel

.... Petitioner

-Vs-

1. The Zonal Deputy Registrar,
(Additional Incharge),
Ariyalur District.

2. The Co-Operative Sub Registrar,
Field Officer,
Sendurai,
Ariyalur District.

.... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of impugned notice dated 19.08.2021 issued by the 2nd respondent and quash the same.

For Petitioner :Mr. K.Balu

For Respondents :Mr. U.Baranidharan,
Government Advocate

ORDER

The subject matter of challenge in the present writ petition pertains to the proceedings of the 2nd respondent dated 19.08.2021, calling for the Special Executive Committee Meeting on 01.09.2021 to consider the No confidence motion that was moved by the members of the Executive Committee.

2. The main ground that was raised by the petitioner is that the impugned notice issued by the 2nd respondent is not in accordance with the Rule 62 (ii) of the Tamil Nadu Co-operative Societies Rules, 1988 (herein after called as Rules), since the requisition has been received from less than 2/3rd members of the society. According to the petitioner, there are totally 7 members in the committee and out of the same, 5 members have withdrawn the requisition for no confidence and therefore, the meeting that has been called for by the 2nd respondent is clearly in violation of the relevant Rule.

3. When the matter was taken up for hearing on 02.09.2021, this Court directed the learned Government Counsel appearing on behalf of the respondents to take instructions and report before this Court as to what transpired in the meeting that took place on 01.09.2021.

4. When the matter was taken up for hearing today, the learned Government counsel circulated the minutes of the meeting that took place on 01.09.2021. The learned Government counsel submitted that totally seven members participated in the meeting and all the seven members have signed in favour of the no-confidence motion raised against the petitioner. The learned Government counsel therefore submitted that there was absolutely no ground to interfere with the impugned notice issued by the second respondent and the ground that has been taken by the petitioner as if five members have withdrawn their consent, is totally unsustainable.

5. The learned counsel for the petitioner submitted that the second respondent ought not to have called for the meeting, since the

requisition was not made by the 2/3rd of the members as required under Rules and therefore, the subsequent meeting that had taken place on 01.09.2021 is non-est in the eye of law. The learned counsel submitted that what transpired in the meeting on 09.09.2021 is irrelevant since calling for such a meeting itself is not in accordance with the relevant Rules.

6. The main issue that has been raised in the present writ petition challenging the impugned notice issued by the 2nd respondent is that the impugned notice is not in line with the relevant Rules.

7. The relevant rule specifically states that no special meeting of the Board shall be convened unless the requisition in writing is signed by not less than 2/3^{rds} of the existing members of the board of the society at the time of such requisition, is presented to the Registrar.

8. In the present case, there are totally eight members including the petitioner. Therefore the requisition should have been

signed by 2/3rd out of the remaining seven members. According to the petitioner, five members have already withdrawn their requisition and therefore, there was no 2/3rd strength in order to enable the 2nd respondent to call for the meeting. The learned counsel for the petitioner in order to substantiate his submission relied upon the requisition letter dated 14.08.2021 wherein three of the members made a representation to the Deputy Registrar, Ariyalur District, withdrawing their requisition made against the petitioner calling for no-confidence. According to the petitioner, even thereafter two of the members made similar requests to the Deputy Registrar, Ariyalur.

9. If really the stand taken by the petitioner is correct, there was no requirement for those five members, who are said to have withdrawn the requisition to have even participated in the special meeting that was called by the 2nd respondent. It is seen from the resolution passed in the meeting held on 01.09.2021 that all the seven members have voted in favour of the no-confidence motion brought against the petitioner.

10. In view of the above, this Court does not find any illegality in the notice issued by the second respondent and the purpose of the notice that was issued by the second respondent is ultimately proved to be correct, since all the seven members have voted against the petitioner in the meeting held on 01.09.2021. Therefore this Court does not find any ground to interfere with the impugned notice issued by the second respondent.

11. In the result, this writ petition is dismissed. Pursuant to the resolution passed by the members, it is left open to the respondents to pass appropriate orders. If the petitioner is aggrieved by the same, it is left open to the petitioner to work out his remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

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13.09.2021

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To

1. The Zonal Deuty Registrar,
(Additional Incharge),
Ariyalur District.
2. The Co-Operative Sub Registrar,
Field Officer,
Sendurai,
Ariyalur District.

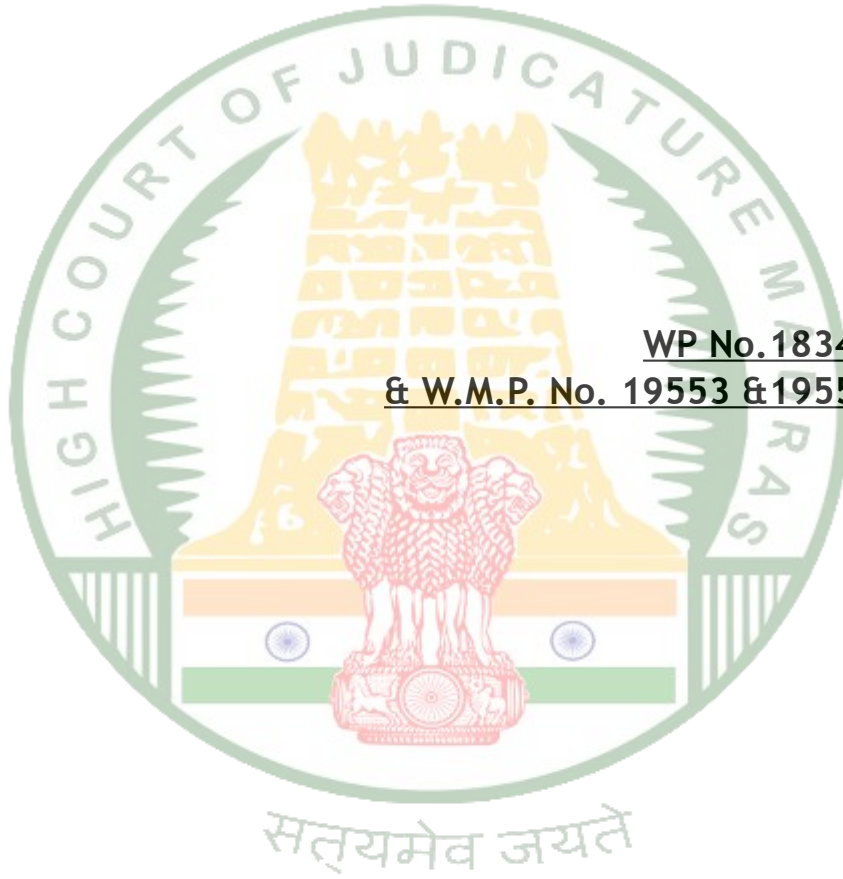


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N.ANAND VENKATESH, J.

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