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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2021

CORAM

THE HON'BLE MR.JUSTICE PARESH UPADHYAY
AND
THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.No.2695 of 2021
and
C.M.P.No.17456 of 2021

1.C.P.Murugan
2.R.Krishnaveni
3.S.Narayanan
4.Mani
5.K.Muththal
6.S.Meena
7.S.Hari
8.P.Perumal

..Appellants/Petitioners

Vs

The Joint Registrar of Co-operative
Societies, Thiruvannamalai Region,
Thiruvannamalai.

..Respondent/Respondent

Appeal preferred under Clause XV of Letters Patent against
the order dated 22.09.2021 made in W.P.No.20232 of 2021.

Prayer in W.P.No.20232 of 2021: Writ Petition filed under
Article 226 of the Constitution of India, to call for the
records of the supersession order passed by the respondent in Na.Ka.2261/ 2021
sa.pa.dated 9.8.2021 and quash the same.

For Appellants .. Mr.M.S.Palanisamy

JUDGMENT
(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 22
September, 2021 recorded on W.P.No.20232 of 2021. By the
impugned order, the writ petition filed by the present
appellants challenging the order dated 09.08.2021 superseding
the Society, in exercise of powers conferred under Section 88 of
the Tamil Nadu Co-operative Societies Act is dismissed by
learned single Judge, principally on the ground of statutory
alternative remedy.



2. Learned advocate for the appellants/original writ petitioners has submitted that the dismissal of writ petition on the ground of alternative remedy is erroneous and taking into consideration the decisions of this Court which were relied before learned single Judge, the writ petition ought to have been entertained. It is noted that the learned advocate for the appellants has extensively taken this Court through the judgments which are noted in the impugned order and has also attempted to argue the matter on merits. According to him, the order impugned suffers from various illegalities and this appeal be entertained.

3. Having heard the learned advocate for the appellants and having considered the material on record, this Court finds as under:

3.1. The grievance of the appellants is right to the extent that though decisions of this Court were put for consideration before learned single Judge, they are not taken into consideration by him. We find that, when learned single Judge was not inclined to exercise his discretion vested under Article 226 of the Constitution of India, it would not have been proper to go into the merits of the matter and learned single Judge has rightly not gone into it.

3.2. The question before this Bench in this appeal is, whether in the facts of this case, learned single Judge can be said to have fallen into any error, which comes within the four corners of error apparent on the face of the record to be corrected in an intra-court appeal. On this we find that, refusal to exercise discretion by learned single Judge in the facts of this case, can not be termed to be an error apparent on the face of record which may call for interference in an intra-court appeal. This appeal therefore need not be entertained.

3.3. So far the grievance, that though precedents were cited before learned single Judge; no discussion is made in that regard, is concerned, we concur with the learned single Judge and we also do not intend to discuss the same while recording this order, though the same is pressed into service by the learned advocate for the appellants, because once the matter is to be left to the statutory authority, expressing any opinion with regard to any of the contentions of the appellants would prejudice the case of either of the parties and therefore, it would be conflicting in nature, which can not be done. Either the parties are left to resort to the statutory remedy which learned single Judge has done, or the grievance is to be entertained on merits. It cannot be both together.

3.4. Learned single Judge while exercising discretion under



Article 226 of the Constitution of India, as noted above, has declined to entertain the writ petition and we do not see any reason to interfere in the said course of action, in the facts of the case. This appeal therefore need not be entertained.

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4. While recording as above, it is clarified that since this Court has not gone into the merits of the matter, in the event the present appellants approach the statutory authorities, the said appeal shall be considered without being influenced by the fact that, this Court has dismissed the petition and this appeal with further clarification that dismissal of the same by this Court is not to mean confirmation of the order passed by the State Authorities, which was impugned in the petition.

5. With the above observation, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mmi/2

To

The Joint Registrar of Co-operative
Societies, Thiruvannamalai Region,
Thiruvannamalai.

+1cc to Mr.M.S.Palanisamy, Advocate, S.R.No.56167

+1cc to the Government Pleader, S.R.No.57164

W.A.No.2695 of 2021

SJ(CO)
RGA(22/11/2021)