



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.8675 of 2021

and

W.M.P. (MD) .Nos.6546 of 2021

K.Mathiyalagan

...Petitioner

Vs.

1. The Registrar of Co-operative Societies (Housing),
Tamil Nadu Co-operative Housing Society,
No.48, Ritherton Road, Vepperi, Chennai-600 007.

2. The Deputy Registrar (Housing Society),
Virudhunagar Region,
No.3, DD Road, Mani Nagaram,
Virudhunagar District.

3. The President,
VNR-HSG 8, Sayalkudi Urban Co-operative
Housing Society Limited, Sayalkudi,
Ramanathapuram District.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, call for the records in Na.Ka.No.1159/17/Sapa (1), dated 09.04.2021 on the file of the second respondent and quash the same.

For Petitioner : Mr.S.Kumar

For Respondents : Mr.P.Mahendran

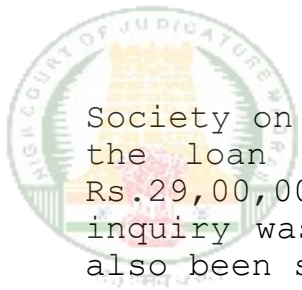
Additional Government Pleader

ORDER

On consent given by either side, the main Writ Petition itself has been taken up for final hearing.

2. The subject matter of challenge in the present Writ Petition is the proceedings of the second respondent, dated 09.04.2021, wherein, the second respondent has wound up the Society as per Section 137 (2) of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred as "the Act").

3. The petitioner is the member of the third respondent Society. The second respondent initiated proceedings to wind up the



Society on the ground that the Society has almost become defunct and the loan outstanding to the Society is to the tune of nearly Rs.29,00,000/- (Rupees Twenty Nine Lakhs only) and already an inquiry was conducted under Section 82 of the Act and a report has also been submitted.

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4. The second respondent issued a show cause notice, dated 13.02.2020 to the third respondent calling for an explanation as to why orders should not be passed under Section 137 (2) for winding up the Society. On receipt of the show cause notice, the third respondent also gave an explanation on 15.03.2020. After considering the explanation, the impugned order came to be passed by the second respondent on 09.04.2021 for winding up the Society. Aggrieved by the same, the present Writ Petition has been filed before this Court by one of the Members of the Society.

5. Heard Mr.S.Kumar, learned counsel appearing on behalf of the petitioner and Mr.P.Mahendran, learned Additional Government Pleader appearing on behalf of the respondents.

6. This Court had the benefit of the second respondent, namely, R.Lakshmana Kumar, being present at the time, when the matter was taken up for hearing.

7. The learned Additional Government Pleader on instructions given by the second respondent fairly submitted that the impugned order has been passed without fulfilling the mandatory requirements under Section 137 of the Act.

8. A careful reading of Section 137 of the Act along with Section 113 of the Tamil Nadu Co-operative Societies Rules, 1988 shows that it mandates convening a special meeting after giving seven clear days' notice to the members along with a copy of the notice under Sub Section 1 of Section 137. In the event of failure of the Society to convene the special meeting, the Registrar may himself communicate or authorize the communication of a copy of the said notice to the members of the Society calling upon such members to submit their representations, if any. This mandatory requirement was not followed by the second respondent and straight away, the impugned order came to be passed by the second respondent.

9. In view of the above, the impugned proceedings of the second respondent, is liable to be interfered with by this Court. Accordingly, the impugned proceedings of the second respondent, dated 09.04.2021, is hereby quashed. The matter is remanded back to the file of the second respondent and the second respondent is directed to continue with the process after complying with all the mandatory requirements provided under the Tamil Nadu Co-operative Societies Act and Rules thereunder and proceed to pass orders strictly in accordance with law.



10. The Writ Petition stands allowed with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

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.

tsg

To

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Ramanathapuram District.

+1 CC to M/s.SPL GP (SR-18087[F] dated 29/04/2021)

Order made in
W.P. (MD) .No.8675 of 2021

Dated:
28.04.2021

GS (11.06.2021) 3P 5C