



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2022

C O R A M

THE HON'BLE MS.JUSTICE V.M.VELUMANI

W.P.No.6644 of 2021
and W.M.P.Nos.7197 & 7198 of 2021

R.Tamilselvan

...Petitioner

Vs

1.The Deputy Registrar of Cooperative Societies,
(Full Additional Incharge)
Tindivanam Circle, Tindivanam,
Villupuram District.

2.The President,
CL.SPL.156, Nolambur Primary Agricultural
Cooperative Credit Society,
Nolambur, Tindivanam Taluk,
Villupuram District.

3.The President,
CL.SPI.137 Avanipur Primary Agricultural
Cooperative Credit Society,
Avanipur Village & Post,
Tindivanam Taluk,
Villupuram District.

... Respondents

Prayer Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.2122/2018 Sa.Pa.1, dated 13.05.2019 and quash the same.

For Petitioner : Mr.C.Prakasam

For R1 : Mr.S.Arumugam
Government Advocate

ORDER

This Writ Petition is filed challenging the impugned order passed by the 1st respondent dated 13.05.2019, under Section 87 (1) of the Tamil Nadu Co-operative Societies Act (hereinafter referred as 'the Act', in short).



2. According to the petitioner, while he was working as clerk in the 3rd respondent Society, the 1st respondent deputed him to the 2nd respondent Society to work as Secretary In-charge. When the petitioner was about to attain the age of superannuation on 30.11.2017, he was sent back to the 3rd respondent society on 27.11.2017 and he retired from the service. The petitioner was not paid with the retirement benefits and by enquiry, he came to know that by proceedings dated 13.05.2019, his retirement benefits were withheld. According to the petitioner, he has not made any misappropriation and has not committed any irregularities causing loss to the Society. The surcharge proceedings initiated against the petitioner under Section 87(1) of the Act, is invalid and illegal and hence, the petitioner has come out with the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that this Court in number of judgments has held that the salary, which was paid cannot be recovered and prayed for allowing the Writ Petition.

4. The 1st respondent has filed counter affidavit denying various averments made in the affidavit. Mr.S.Arumugam, learned Government Advocate appearing for the 1st respondent submitted that against the impugned order, there is an effective alternative remedy and without exhausting the said alternative remedy, the petitioner has come out with the present Writ Petition and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner as well as Mr.Arumugam, learned Government Advocate appearing for the 1st respondent and perused the materials available on record.

6. The petitioner has challenged the impugned surcharge order on the ground that the proceedings initiated under Section 87(1) of the Act is not maintainable as he has not committed any irregularities or wilfully caused loss to the Society. He was deputed to work as Secretary in-charge in the 2nd respondent Society by the 1st respondent and for the work done by him as Secretary in-charge, he was paid salary and the learned counsel appearing for the petitioner argued the Writ Petition on merits. The contention of the learned counsel appearing for the petitioner is that the petitioner has not committed any irregularities causing loss to the Society and he was paid salary for the work done by him and therefore, the surcharge proceedings initiated against the petitioner is not maintainable and is not acceptable.

7. As per Section 152 of the Act, appeal is provided against



the order passed under Section 87(1) of the Act. The said remedy is the effective alternative remedy and the District Judge has deputed as Cooperative Tribunal. The petitioner has not given any reason for not exhausting the said alternative effective remedy and approached this Court directly. In view of the appeal provided under Section 152 of the Act, the Writ Petition is dismissed as not maintainable. It is open to the petitioner to prefer an appeal as provided under Section 152 of the Act, raising all the objections available to him.

8. With the above observation, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

rst

To:

1. The Deputy Registrar of Cooperative Societies,
(Full Additional Incharge)
Tindivanam Circle, Tindivanam,
Villupuram District.
2. The President,
CL.SPL.156, Nolambur Primary Agricultural
Cooperative Credit Society,
Nolambur, Tindivanam Taluk,
Villupuram District.
3. The President,
CL.SPI.137 Avanipur Primary Agricultural
Cooperative Credit Society,
Avanipur Village & Post,
Tindivanam Taluk,
Villupuram District.

+1cc to Mr.C.Prakasama, Advocate, S.R.No.19859
+1cc to the Government Pleader, S.R.No.20339

W.P.No.6644 of 2021

GPL (CO)
SB(18/04/2022)