



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

C O R A M

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

W.P.No.31703 of 2019
and W.M.P.Nos.31896 & 31897 of 2019

Tamilnadu Government Servants Co-operative
-Building Society Ltd., (XNC-747),
Represented by its President Mr.N.S.Kannan,
O/o. Directorate of Fisheries, 2nd Floor,
DMS Campus, Teynampet,
Chennai - 600 018.

...Petitioner

Vs

1.The Secretary to Government,
Department of Housing and Urban Development,
Government of Tamilnadu,
Fort St.George, Chennai - 600 009.

2.The Registrar of Co-operative Societies (Housing),
No.50, Ritherdon Road,
Vepery, Chennai 600 007.

3.The Deputy Registrar of Co-operative Societies (Housing),
Chennai Region,
No.18, Ramanathan Street,
T.Nagar, Chennai - 600 017.

... Respondents

Prayer Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent No.3 in his proceedings Na.Ka.No.983/2016/C dated 22.01.2018 as communicated to the petitioner vide letter dated 01.10.2019 and quash the same thereby direct the respondents No.2 and 3 to restore the petitioner society back as per the representation of the petitioner dated 05.12.2018.

For Petitioner : Mr.S.Senthilnathan

For Respondents: Mr.U.Baranidharan

Additional Government Pleader



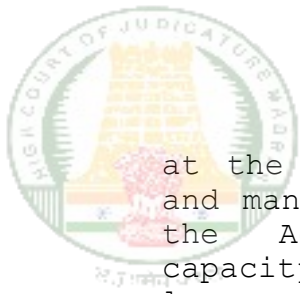
ORDER

The petitioner has come out with the present Writ Petition challenging the impugned proceedings dated 22.01.2018 in Na.Ka.No.983/2016/C passed by the 3rd respondent and to quash the same and consequently for a direction to respondents 2 and 3, to restore the petitioner Society back as per the representation of the petitioner dated 05.12.2018.

2. According to the learned counsel appearing for the petitioner, the petitioner Society was established in the year 1972 for the benefits of the Government servants to form layout and allot house site to the Government servants at cheap rate and without stamp duty. The Society has formed various housing projects and totally 1160 members have purchased the property and they have confidence in the Society. There were some litigations especially in Perumbakkam housing site and Society has taken both Civil and Criminal action against the landlords. While so, a Special Officer was appointed for the Society and he was in-charge for more than 10 years. Subsequently, election was conducted and the Society has been functioning without any problem. While so, the 3rd respondent - the Deputy Registrar of Co-operative Societies, without following the procedure contemplated under Section 137 of the Tamilnadu Co-operative Societies Act (hereinafter referred as 'the Act'), by order dated 22.01.2018, ordered winding up of the Society. Even though the respondent has ordered winding up on 22.01.2018, no action was taken by the liquidator. The petitioner gave a representation dated 05.12.2018 to recall the said impugned order. The 3rd respondent by the second impugned order dated 01.10.2019 rejected the same. Hence, the petitioner has come up with the present Writ Petition challenging the impugned orders.

3. The learned counsel appearing for the petitioner contended that the 3rd respondent without there being any report as per Sections 80 to 83 of the Act and without giving any notice to the Society, ordered winding up, which is illegal. The reason given by the 3rd respondent for rejecting the representation of the petitioner is not valid and the impugned order is illegal and prayed for setting aside the impugned orders.

4. Mr. U. Baranidharan, learned Additional Government Pleader produced the copy of the order dated 07.03.2022 passed by the 3rd respondent, cancelling the order of winding up dated 22.01.2018 and directing the liquidator to appoint a Committee to administer the Society. The learned Additional Government Pleader submitted that, in view of cancellation of the winding up order dated 22.01.2018, the Writ Petition has become infructuous. He further submitted that the petitioner Society,



at the time of filing the Writ Petition was under the control and management of the liquidator appointed under Section 138 of the Act. The Writ Petition filed by one N.S.Kannan, in the capacity as the President is legally unsustainable and he has no locus standi to file the Writ Petition and prayed for dismissal of the Writ Petition.

5.The learned counsel appearing for the petitioner in reply to the contention of the learned Additional Government Pleader appearing for the respondents submitted that once Winding up order is cancelled, the management must be handedover to the existing Board of Directors. The order of the 2nd respondent directing the liquidator to form a committee to administer the Society is invalid and illegal and prayed for setting aside the portion of the order dated 07.03.2022, directing the liquidator to appoint a committee to administer the Society and prayed for allowing the Writ Petition.

6.The learned Additional Government Pleader appearing for the respondents in reply to the contention of the learned counsel appearing for the petitioner submitted that during the pendency of the initiation of proceedings, it was brought to the notice of the 3rd respondent with regard to the serious irregularities committed by N.S.Kannan, the former President of the Society along with the Board of Directors. Based on the complaint, enquiry proceedings under Section 81 of the Act was initiated. After completion of enquiry proceedings, the Enquiry Officer filed his report on 24.06.2021 confirming the irregularities committed in allotment of plots and recommended for initiating actions against the former President N.S.Kannan under Section 36 of the Act for permanent disqualification from holding any post in any registered Society. He further submitted that the petitioner Society is under the process of restoration.

7.Heard the learned counsel appearing for the petitioner as well as learned Additional Government Pleader appearing for the respondents and perused the materials on record.

8.From the above materials, it is seen that the petitioner is challenging the order of winding up the society on 22.01.2018. Subsequent to the filing of the Writ Petition, the 3rd respondent by order dated 07.03.2022, cancelled the order of winding up dated 22.01.2018. In view of the cancellation of the order dated 22.01.2018, the Writ Petition has become infructuous and is liable to be dismissed. The contention of the learned counsel appearing for the petitioner that after cancellation of the winding up order, the management must be handedover to the existing Board of Directors cannot be considered and decided in the Writ Petition as the term of the office of the estwhile



Board of Directors expired in the year 2018 itself. It is open to the petitioner to challenge the portion of the order dated 07.03.2022.

9. With the above observations, the Writ Petition is dismissed as infructuous. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary to Government,
Department of Housing and Urban Development,
Government of Tamilnadu,
Fort St. George, Chennai - 600 009.
2. The Registrar of Co-operative Societies (Housing),
No.50, Ritherdon Road,
Vepery, Chennai 600 007.
3. The Deputy Registrar of Co-operative Societies (Housing),
Chennai Region,
No.18, Ramanathan Street,
T.Nagar, Chennai - 600 017.

+1 cc to Spl. Government Pleader Sr.NO. 2345

W.P.No.31703 of 2019

SKM(CO)

A.SK(26/04/2022)