



W.P(MD)No.8074 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8074 of 2017

A.Alphones (Died)

R.Iginus Antony Kumar

... Petitioner

*(Petitioner is substituted vide order dated
30.06.2022 in W.M.P.(MD)No.9098 of 2017
in W.P.(MD)No.8074 of 2017 by GRSJ)*

Vs.

1.The Registrar of Co-operative Societies,
Kilpauk, Chennai – 600 010.

*(R1 is deleted from array of the
respondents vide order dated 30.06.2022 in
W.M.P.(MD)No.6884 of 2017 in
W.P.(MD)No.8074 of 2017 by GRSJ)*

2.The Joint Registrar of Co-operative Societies,
Tuticorin.

3.The Deputy Registrar of Co-operative Societies,
Thiruchendur,
Tuticorin District.

4.0726 – The Prakasapuram Co-operative
Urban Bank Ltd.,
Rep. by its Managing Director,
Prakasapuram,
Tuticorin – 628 616.

5.S.Ravindran

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the 3rd respondent in Na.Ka.809/2017 SaPa, dated 27.03.2017 quash the same and remove the 5th respondent from membership of the 4th respondent Society under Section 23(4) of the Tamilnadu Cooperative Societies Act.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.P.Thilak Kumar,
Government Pleader for R2 to R4

No appearance for R5

ORDER

Heard the learned counsel for the writ petitioner and the learned Government Pleader for the respondents 2 to 4. The fifth respondent is the contesting party. Even though he has been served and his name is printed in the cause list, he has not chosen to enter appearance.

2.The petitioner is a member of the fourth respondent society. He was also a director during the previous term. The fifth respondent was elected as the president of the society. According to the petitioner, the fifth respondent is disqualified from even being a member of the society. He therefore submitted a petition before the third respondent for disqualifying the fifth respondent. The



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third respondent rejected the petitioner's demand on the ground that the petitioner must invoke Rule 62 of the Tamil Nadu Cooperative Societies Rules and have resolution passed. Questioning the same, this writ petition came to be filed.

3.As rightly pointed out by the learned Government Pleader, one part of the prayer has become infructuous. However, the demand of the petitioner that the fifth respondent had attracted a disqualification as set out in Section 23 of the Act has to be adjudicated.

4.The petitioner has placed materials to show that the fifth respondent was granted license to run the business of pawnbroker. The fourth respondent society is carrying on banking operations. It is seen that the fifth respondent was engaged in business similar to that of the fourth respondent society of which, he was the president during the relevant point of time. Section 23(2)(e) of the Tamil Nadu Cooperative Societies Act is as follows:-

“23. Disqualifications for membership of society:

(1)

(2) (e) undertakes directly or indirectly any business or industry or activity similar to that of the registered society or inconsistent with, or prejudicial to, the work of the registered society;”



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5.I am satisfied that the third respondent failed to follow the statutory mandate set out in the above provision. He instead misdirected himself by holding that a resolution must be passed by a majority of the members of the board. The order impugned in this writ petition is set aside and the writ petition is allowed. It is declared that the fifth respondent has become disqualified to be a member of the fourth respondent society. No costs.

30.06.2022

Index : Yes / No
Internet : Yes/ No
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To:

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Tuticorin.

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G.R.SWAMINATHAN, J.

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30.06.2022
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