



Cont.P.No.611 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Contempt Petition No.611 of 2023

N.K.R.Jothivel

... Petitioner

Vs

1.Dr.A.D.Baskaran, B.V.Sc.,
Registrar of Cooperative Societies (Housing),
TN Cooperative Housing Federation Complex,
2nd Floor, 48, Ritherton Road,
Vepery, Chennai – 600 007.

2.A.Amudhavalli
President, Gangavalli Women Uruban,
Cooperative Housing Society Limited,
SLM/HSG-92,
Gangavalli 636 105,
Salem District.

... Respondents

PRAYER : Petition filed under Section 11 of the Contempt of Courts Act, praying to punish the respondents for wilful disobedience of the order dated 06.06.2022 made in W.P.No.1090 of 2014.

For Petitioner : Mr.N.Manoharan

For Respondent : Mr.T.Arunkumar
Additional Government Pleader for R1
: Mr.M.S.Palanisamy for R2



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ORDER

The contempt petition has been filed to punish the respondents for their wilful disobedience of the order dated 06.06.2022 made in W.P.No.1090 of 2014. This Court, while allowing the writ petition, passed an order as under:

“6.In view of the facts and circumstances, the fixation of pay as done by the respondents stands confirmed and the excess payment, if any, already paid to the writ petitioner cannot be recovered. The amount due to the writ petitioner, if any, towards terminal and pensionary benefits are to be settled as expeditiously as possible.

7.In view of the facts and circumstances, the impugned orders dated 26.02.2013 made in Na.Ka.No.1149/2012/ Sa.Pa.No.1 passed by the first respondent, confirming the Resolution No.1 dated 01.09.2003 passed by the second respondent are quashed only in respect of recovery alone. With reference to the pay fixation done, the impugned orders are confirmed.”

2. Pursuant to the order, the respondents have to settle the retirement benefits due to the petitioner.



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3. In implementation of the order of this Court, the 2nd respondent Society passed an order on 30.03.2023 stating that the petitioner is liable to pay a sum of Rs.1,29,949/- to the Society. That apart, the Society is not in a position even to pay the monthly salary to its employees.

4. In view of the said order passed by the 2nd respondent Cooperative Society and to find out the correct details, this Court directed the Registrar of Cooperative Societies (Housing) to file a status report. Accordingly, the Registrar of Cooperative Societies (Housing) filed a status report in April 2023. The relevant portion of the status report reads as under:

“e) It is humbly submitted that apart from the above the following points are brought to the kind consideration of the Hon'ble High Court.

- *Available balance in the Society account as on 20.04.2023- Rs.16831.40*
- *Society completely depends up on the Tamil Nadu Housing Federation for lending loans- No own fund involved.*
- *At present Society's Imbalance with federation is Rs.58.73 Lakhs*
- *No immovable Assets in the name of the Society.*



- *So far the Petitioner in his 17 years of Service in the Society – has drawn a humongous amount of Rs.71.16 lakhs as Salary.*
- *But as per the Registrar of Cooperative Societies (Housing)'s Section 181 direction 1991, he is entitled only to Rs. 18.20 Lakhs as Salary-However he has illegally fixed his salary without following the above Registrars direction and thereby created a huge loss to the society by drawing excess salary of Rs.52.96 Lakhs, which directly correlates to the Society's imbalance of Rs.58.73 Lakhs.*
- *Moreover on colluding with the societies president (Mrs.A.Amuthavalli) the petitioner apart from the above excess salary, has also withdrawn an amount of Rs.4 Lakhs as EPF advance, on the date of retirement which is totally illegal and still pending to be recovered from the petitioner.*
- *With regard to the non – investment of gratuity amount in the financing bank- an 81 enquiry has been ordered by the Deputy Registrar (Housing), Salem Region vide his proceedings Rc.No.823/2023/vu dated 13.04.2023.*
- *The petitioner's retirement itself is a suspicious one as the petitioner in his letter dated 11.02.2019 addressed to the president (Mrs.A.Amuthavalli) of the above society*



which was submitted prior to his retirement has claimed that there is no disciplinary action pending against him and the same was forwarded to the Deputy Registrar (Housing), Salem by the President. But the then Deputy Registrar (Housing), Salem Region who was the committee head to decide about the retirement of the society staffs, has allowed the retirement suspiciously knowing fully well that a file on 82 inspection is pending in his office for surcharge and disciplinary action.

- *The total outstanding of the society as on 31.03.2023 stood at Rs.954.34 Lakhs. Even if the one time Settlement as per Government Order (G.O.40 Housing and Urban Development Department dated 16.03.2015) is implemented (i.e. if Principal and Interest is fully paid by a member, the other interest viz EMI interest and penal interest will be fully waived), the Society could collect Rs.292.34 Lakhs so that the Society can relend it to the members. Therefore, the society has the wherewithal to stand to cater to the women members of the society hence no need for liquidation.”*

5. In view of the above report, this Court is of the considered opinion that there are no funds in the Society to pay any further amount to the



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petitioner. That apart, it is contended that the petitioner had rendered 17 years of service in the Society and had drawn huge amount of Rs.71.16 lakhs as salary despite the fact that he is entitled for a salary of Rs.18.20 lakhs.

6. In view of various issues raised against the petitioner regarding withdrawal of salary and other infirmities, this Court is of the considered opinion that the respondents have not committed any contempt of Court willfully and it is for the petitioner to adjudicate all these issues based on the orders already passed by the 2nd respondent. Accordingly, the Contempt Petition stands closed.

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Index : Yes/ No

Speaking Order : Yes/No

Sgl



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S.M.SUBRAMANIAM, J.

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