



W.P. No. 6038 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 6038 of 2020

and

W.M.P. Nos. 7085 and 7087 of 2020

T.Muthukumaran

... Petitioner

-VS-

1. The Deputy Registrar of Cooperative Societies,
Mayiladuthurai,
Having Office at Deen Plaza,
Near State Bank,
Mayiladuthurai – 609001,
Nagapattinam District.
2. The Sub-Registrar of Cooperative Societies,
Mayiladuthurai cum Sec 81 Enquiry Officer,
Having Office at Deen Plaza,
Near State Bank,
Mayiladuthurai – 609001,
Nagapattinam District.
3. Inspector of Police,
CBCID (Cyber Crime),
Old Commissioner of Police Office,
Egmore,
Chennai.

(R3 SUO-MOTU impleaded as per order
dated 10.03.2020 made in W.P. No. 6038 of 2020
by NAVJ)

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the Second Respondent in his proceedings (Nil) dated 14.03.2019, in so far as it is against the Petitioner is concerned and consequential surcharge proceedings of First Respondent in R.C. No. 773/2019 Sa. Pa. Dated 09.10.2019 and quash the same.

For Petitioner : Ms. H.Kavitha

For Respondents : Mr. S.Arumugam
Government Advocate (for R1 & R2)

Mr. S.Rajkumar
Additional Public Prosecutor (for R3)

ORDER

Heard Ms. H.Kavitha, Learned Counsel for the Petitioner, Mr. S.Arumugam, Learned Government Advocate appearing for the First and Second Respondents and Mr. S.Rajkumar, Learned Additional Public Prosecutor appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent by Proceedings in R.C. No.773/2019 Sa. Pa. Dated 09.10.2019 had called upon the Petitioner and two others, viz., D.Manimaran and K.R.Thaiyalnayaki, to submit their explanation for the



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surcharge action taken against them as employees of 993, Mayuram Urban Co-operative Bank Limited under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the TNCS Act' for short), which is challenged in this Writ Petition.

3. It is brought to notice that the said D.Manimaran and K.R.Thaiyalnayaki had filed had filed the Writ Petitions in W.P. Nos. 8875 and 8877 of 2020 respectively challenging the same order, which has been dismissed by order dated 08.07.2020 holding as follows:-

“3. The writ petitions are filed questioning the Surcharge proceedings dated 09.10.2019 initiated by the first respondent under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. According to the learned counsel appearing for the petitioners, the proceeding suffers from want of jurisdiction as there was no wilful negligence on the part of the petitioners. The learned counsel would further submit that unless there is a finding of fact in that regard, the question of initiating Surcharge proceeding does not arise at all.



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4. *On the above lines, the learned counsel attempted to draw the attention of this Court to the factual aspects which culminated in the initiation of the Surcharge proceedings against the petitioners.*

5. *This Court is unable to appreciate as to how this Court, exercising its extraordinary jurisdiction under Article 226 of the Constitution of India, can enter into the factual areas of controversy and appreciate the present challenge of the petitioners in these writ petitions.*

6. *It is only initiation of Surcharge proceedings and it is always open to the petitioners to put forth all their contentions, including the aspect of jurisdiction, before the authority and only when final order is passed, in pursuance of the proceedings, a cause of action may arise for resorting to any legal remedy. At this stage, it is not open to the petitioners to approach this Court under Article 226 of the Constitution of India and seek to stall further proceedings under the provisions of the Co-operative Societies Act. Certainly, it is not for this*



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Court to appreciate the factual submission in order to

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intervene in favour of the petitioners at this preliminary stage.

In such view of the matter, these writ petitions are not maintainable as the same are premature and misconceived.”

The said order applies to the Petitioner also and it has not been demonstrated that any valid reason exists to take a different view of the matter in this case.

In the result, the Writ Petition, which is devoid of merits, is dismissed.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 24.05.2024.

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To

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P.D. AUDIKESAVALU, J.

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