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W.A.No.2483 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.2483 of 2021

TSD.607, Vettagiripalayam Milk Producers
Co-operative Society rep.by its Secretary
Vettagiripalayam Village
A.K.Padavedu Post, Polur Taluk
Tiruvannamalai District

.. Appellant

v.

1. D.Venugopal
2. C.Mohanadas
3. G.Palani
4. The Government of Tamil Nadu
rep.by its Principal Secretary
Animal Husbandry, Dairying and
Fisheries Department
Fort St.George, Chennai 600 009
5. The Commissioner of Milk Production
and Dairy Development



W.A.No.2483 of 2021

WEB COPY

Madhavaram Milk Colony
Madhavaram, Chennai 600 051

6. The Deputy Registrar (Dairying)
Vengikkal Post, Tiruvannamalai
Tiruvannamalai District

7. T.P.D.310, Padavedu Vettagiripalayam
Milk Producers Co-operative Society
rep.by its Secretary
Vettagiripalayam Village
A.K.Padavedu Post, Polur Taluk
Tiruvannamalai District

.. Respondents

Appeal filed under Clause 15 of the Letters Patent, against the order dated 11.08.2021 passed in W.P.No.10284 of 2021.

For Appellant :: Mr.T.Mohan
Senior Counsel for
Mr.L.P.Shanmugasundaram

For Respondents :: Mr.Balan Haridas for R1 to R3
Mr.P.Muthukumar
State Government Pleader
for R4 to R6
Mr.M.Mohamed Riazudeen for R7

JUDGMENT

(Judgment of the Court was made by the Hon'ble Acting Chief Justice)

This writ appeal has been filed by TSD-607, Vettagiripalayam Milk
Producers Co-operative Society represented by its Secretary,



W.A.No.2483 of 2021

WEB COPY

Vettagiripalayam Village questioning the correctness of the impugned order dated 11.08.2021 passed by the learned single Judge allowing the writ petition filed by the writ petitioners/respondents 1 to 3 herein, quashing the order dated 20.01.2021 passed by the Deputy Registrar (Dairying), Tiruvannamalai District, on the premise that there is a specific bar under Section 9(1)(d) of the Tamil Nadu Co-operative Societies Act, therefore, the registration of the fourth respondent/appellant herein by permitting the fourth respondent/appellant herein to operate at the Vettagiripalayam Village was illegal.

2. Mr.T.Mohan, learned Senior Counsel appearing for the appellant, assailing the impugned order, contended that when the appellant has been carrying on the business from 23.02.2021 in Vettagiripalayam Village, it is entitled to continue the business in Vettagiripalayam Village. But this fact has been completely overlooked by the learned single Judge and the learned Judge has proceeded to allow the writ petition, on the premise that the seventh respondent was operating both in Padavedu and Vettagiripalayam



W.A.No.2483 of 2021

WEB COPY

Villages, eschewing for a minute that there was a resolution dated 10.02.2018 passed by the seventh respondent restricting their place of operation only within Padavedu. Therefore, the impugned order passed on a misconception is liable to be set aside, he pleaded.

3. In reply, Mr.Balan Haridas, learned counsel appearing for the writ petitioners/respondents 1 to 3, raising a huge objection as to the maintainability of the writ appeal, referring to the counter affidavit filed before us, argued that the so-called resolution dated 10.02.2018 said to have been passed by the seventh respondent has not at all been passed at any point of time and it is a forged one. Adding further, Mr.Balan Haridas submitted that since the seventh respondent has not passed any such resolution on 10.02.2018, it goes without saying that the seventh respondent has been carrying on the business both in Padavedu and Vettagiripalayam Villages. Therefore, the impugned order passed by the learned single Judge quashing the registration of the appellant society, by virtue of Section 9(1)(d) of the Tamil Nadu Cooperative Societies Act, cannot be found fault



W.A.No.2483 of 2021

with.
WEB COPY

4. Mr.M.Mohamed Riazudeen, learned counsel appearing for the seventh respondent, relying upon the counter affidavit, also adopted the arguments advanced by Mr.Balan Haridas, learned counsel appearing for the respondents 1 to 3.

5. We have considered the rival submissions. Since the appeal has been filed based on the resolution dated 10.02.2018 said to have been passed by the seventh respondent and that the respondents 1 to 3 as well as the seventh respondent have named the said resolution as a forged one, consequently urging this Court not to give credence to the same, as it was not even placed before the learned single Judge even for a cursory perusal, we are afraid to go into the question as to whether it is a genuine or forged one. Therefore, recording the statement made by the learned State Government Pleader appearing for the respondents 4 to 6 that if any new material is placed before the Registrar, the same will be also considered, we



W.A.No.2483 of 2021

WEB COPY

hereby direct the Registrar to consider the claim of the appellant on merits and pass a speaking order, after hearing the parties concerned, within a period of four weeks from the date of receipt of a copy of this order. Liberty is also given to the appellant to move appropriate interlocutory application before the Registrar. With this direction and observation, the writ appeal stands disposed of accordingly. Consequently, interim order stands vacated and the C.M.P.Nos.16063 of 2021, 1822 & 3667 of 2022 are closed. However, there shall be no order as to costs.

Speaking/Non speaking order

(T.R.,A.C.J.) (D.B.C.,J.)

Index : yes/no

13.02.2023

ss

To

1. The Principal Secretary to Government
Animal Husbandry, Dairying and
Fisheries Department
Fort St.George
Chennai 600 009



W.A.No.2483 of 2021

WEB COPY

2. The Commissioner of Milk Production
and Dairy Development
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3. The Deputy Registrar (Dairying)
Vengikkal Post, Tiruvannamalai
Tiruvannamalai District
4. The Secretary
T.P.D.310, Padavedu Vettagiripalayam
Milk Producers Co-operative Society
Vettagiripalayam Village
A.K.Padavedu Post, Polur Taluk
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5. The Secretary
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WEB COPY



W.A.No.2483 of 2021

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W.A.No.2483 of 2021

13.02.2023