



W.P(MD)No.14975 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14975 of 2015

M.Sahul Hameed

... Petitioner

Vs.

1.The District Registrar (Societies),
Office of District Registrar,
Integrated District Registrar Office Campus,
St.Marks Street, Sankar Colony,
Palayamkottai - 627 002.

2.The Registrar (Societies),
Office of Registrar,
Tirunelveli,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to inspect the accounts; and registers maintained by Tirunelveli-Tuticorin-Kanyakumari District Film Distributors Association situated in S.N.High Road, Tirunelveli, the society as



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contemplated in T.N. Societies Registration Act and Rules and conduct enquiry and take appropriate action in accordance with law by considering petitioner's petition dated 07.07.2015 within stipulated time fixed by this Court.

(Prayer is amended vide order dated 24.11.2015 in M.P.(MD)No.1 of 15 in W.P.(MD)No.14975 of 2015 by KRCBJ)

For Petitioner : Mr.R.Manimaran

For Respondents : Mr.S.Shanmugavel,
Addl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The petitioner wants the registration of “Cini Film Distributor Association for Tirunelveli, Thoothukudi and Kanayakumari District” to be cancelled.



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3.Sections 36, 37 and 38 of the Tamil Nadu Societies Registration

Act, 1975 are as follows:-

“36. Power of Registrar to inquire into the affairs of registered society’- (1) *The Registrar may, of his own motion or on the application of a majority of the members of the committee of a registered society or on the application of not less than one-third of the members of that registered society, or, if so moved by the District Collector, hold, or direct some person authorized by the Registrar by order in writing in this behalf to hold, an inquiry, into the constitution, working and financial condition of that registered society.*

(2) An application to the Registrar under sub-section (1) shall be supported by such evidence as the Registrar may require for the purpose of showing that the applicants have good reason for applying for an inquiry.

(3) The Registrar may require the applicants under sub-section (1) to furnish such security as he thinks fit for the costs of the proposed inquiry, before the inquiry is held.

(4) All expenses of, and incidental or preliminary to^ the inquiry shall, where such inquiry is held—

a) on application, be defrayed by the applicants therefor or out of the assets of the registered society or by the members or officers of the registered society, in such proportions as the Registrar may, by order in writing, direct ; and

b) on the District Collector's or Registrar's motion, be defrayed out of the assets of the registered society, and shall be recoverable as an arrear of land revenue.



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(5) An order made under sub-section (4) shall, on application, be enforced by any civil court having local jurisdiction in the same manner as a decree of such court.

(6) A person holding an inquiry under this section shall at all reasonable times have free access to all the books, accounts and documents of the registered society, and shall have power to call upon the registered society and the officers of the registered society to produce such books, accounts and documents and furnish such statements and other information in relation to its business as he may direct.

(7) It shall be the duty of all persons who are or have been officers of the registered society to furnish the inquiring officer with all the books, accounts and documents in their custody or power relating to the registered society.

(8) A person holding an inquiry under this section may summon any person who, he has reason to believe, has knowledge of any of the affairs of the registered society and may examine such person on oath and may summon any person to produce any books, accounts or documents belonging to him or in his custody if the person holding the inquiry has reason to believe that such books, accounts or 'documents contain any entries relating to transactions of the registered society.

(9) The result of the inquiry shall be communicated to the registered society and to the applicants, if any.

37.Cancellation of registration:- *When an inquiry has been held under section 36 the registrar may, if he is satisfied—*

(a) that the registered society has contravened any of the provisions of this Act or the rules made there- under; or



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(b) that the registered society is insolvent, or must necessarily become so ; or

(c) that the business of any such registered society is conducted fraudulently or not in accordance with the bylaws or the objects specified in the memorandum filed with the Registrar under section 6, after giving in such manner, as he thinks fit, previous notice in writing to the registered society, specifying briefly the grounds of the proposed cancellation and after giving an opportunity to the registered society to show cause why the cancellation should not be made, cancel the registration of the registered society, and communicate the order of cancellation forthwith to the registered society by registered post.

38.Cancellation of registration of society carrying on unlawful activities.:- *(1) If it appears to the Registrar that any registered Registration society is carrying on any unlawful activity or allows unlawful activity to be carried on within any premises under the control of the society, the Registrar may hold an enquiry into the activities of such society, and in respect of every such enquiry, the Registrar shall have the same powers as are specified in sub-sections (6), (7) and (8) of section 36.*

(2) If on an enquiry under sub-section (1), the Registrar is satisfied that any such society has been carrying on any unlawful activity or has allowed any unlawful activity to be carried on within any premises under the control of the society, he shall, after giving reasonable notice to the society to show cause why the registration of the society should not be cancelled and after considering the representations, if any, made on behalf of the society, by order



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cancel the registration of the society. The Registrar shall communicate the order of cancellation forthwith to the registered society.”

4.The issue falls within the discretionary realm of respondent authorities. The petitioner has not shown that the conditions precedent for exercising such discretion are present in this case. The petitioner is also not having the members on his side. In such a situation, the Writ Court cannot issue any direction. The writ petition stands dismissed. No costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

1.The District Registrar (Societies),
Office of District Registrar,
Integrated District Registrar Office Campus,
St.Marks Street, Sankar Colony,
Palayamkottai - 627 002.

2.The Registrar (Societies),
Office of Registrar,
Tirunelveli, Tirunelveli District.

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G.R.SWAMINATHAN, J.

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