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W.P.Nos.2048 & 2049 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.2048 & 2049 of 2024 and
W.M.P.Nos.2182, 2183 & 2184 of 2024

1.V.Nithyanandam ... Petitioner in W.P.No.2048 of 2024

2.R.Jayakumar ... Petitioner in W.P.No.2049 of 2024

Vs.

1.The Deputy Registrar of
Co-operative Societies (Housing),
Cuddalore Region, Cuddalore.

2.R.Shivaraj,
The Deputy Registrar of
Co-operative Societies (Housing),
Cuddalore Region, Cuddalore.

3.The Chennai Metropolitan Co-operative
Housing Society Ltd.,
Rep by its Deputy Registrar / Administrator,
No.50, Ritherdon Road,
Veppaeri, Chennai 600 007. ... Respondents in both W.Ps

Prayer in both W.Ps: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the surcharge order passed by the 1st respondent in Na.Ka.No.1381/2023/sa.pa dated 19.01.2024 and quash the same.



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In both W.Ps

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For Petitioners : Mr.M.S.Palaniswamy

For Respondents : Mr.S.Nanmaran, SGP for R1 & R2
Mr.Navinkumar, GA for R3

COMMON ORDER

These Writ Petitions have been filed seeking issuance of a Writ of Certiorari to call for the records of the surcharge order passed by the 1st respondent in Na.Ka.No.1381/2023/sa.pa dated 19.01.2024 and quash the same.

2. Heard Mr.M.S.Palaniswamy, learned counsel for the petitioners, Mr.S.Nanmaran, learned Special Government Pleader for R1 & R2 and Mr.Navinkumar, learned Government Advocate for the third respondent.

3. Earlier the petitioners have filed Writ Petitions in W.P.Nos.8515 & 9916 of 2023, challenging the show cause notice issued to them and in the said Writ Petitions, it has been observed that the petitioners should file their explanation to the notice given and the explanation is not satisfactory, the appropriate authority can conduct an enquiry after giving



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a full opportunity of personal hearing to the petitioners.

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4. Now, it is submitted by the learned counsel for the petitioner that during the enquiry, the petitioners have filed a petition seeking permission to produce certain documents by some of the witnesses and allow them to cross-examine them. It is further submitted that the said opportunity was not granted to the petitioners and hence the proceedings have been conducted in violation of natural justice.

5. In the impugned order, it is stated that there is no necessity to cross-examine the witnesses for the reasons recorded therein. When the appropriate authority does not deem it fit to summon certain witnesses for the reasons recorded in the order, it cannot be said that the request of the petitioners has not been considered at all. In case the petitioners are aggrieved due to the order passed by the appropriate authority under Section 87 of the Tamil Nadu Co-operative Societies Act, they are at liberty to file an appeal challenging the same.

6. When the delinquents filed a petition seeking permission to



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summon any of the witnesses to produce certain documents, it cannot be ordered automatically in the name of granting opportunity, unless those documents called for and the summon of the witnesses are necessary for the purpose of the scope of the enquiry and the charges involved therein. When a detailed order has been passed on merits as to why the request of the petitioners is rejected, it is always open to the petitioners to challenge the same in a manner known to law or in accordance with the statutory provisions.

7. In view of the above stated reasons, these Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

01.02.2024

Index : Yes /No
Internet : Yes/No
Speaking / Non-speaking
Neutral Citation : Yes / No
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NOTE : The Registry is directed to return the copy of the impugned order in Na.Ka.No.1381 / 2023/ sa.pa dated 19.01.2024 and issue the copy of the order today itself (01.02.2024).

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R.N.MANJULA, J.

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