



W.A.(MD).No.298 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.02.2025

CORAM

**THE HONOURABLE Mrs.JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE S.SRIMATHY**

W.A.(MD).No.298 of 2025
and
C.M.P.(MD).No.2261 of 2025

1.The Registrar of Cooperative Societies,
Periyar E.V.R.Salai
Kilpauk, Chennai.

2.The Additional Registrar of Cooperative Societies
Marketing Plan and Development,
Office of the Registrar,
Periyar EVR Salai, Kilpauk, Chennai.

3.The Joint Registrar of Cooperative Societies
Kanyakumari District at Nagercoil.

4.The Deputy Registrar of Cooperative Societies
Thuckalay, Kanyakumari District

... Appellants/Respondents

Vs.

1.P.Denis

2.Nesaiyan

3.Maheswari

4.Sornam

5.Chelladurai



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6.K.Gnanamani

Respondents/Writ Petitioners

7.The Secretary

Y-93 Vilunthayambalam Primary Agricultural
Cooperative Thrift Society,
Vilunthayambalam Post
Kanyakumari District

... 7th Respondent/5th respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 28.09.2022 passed in W.P.(MD).No.15812 of 2013.

For Appellants : Mrs.D.Farhana Ghoushia

Special Government Pleader

For Respondents : Mr.K.Jeyamohan for R1

JUDGMENT

(Judgment of the Court was delivered by J.NISHA BANU,J.)

The present Writ Appeal has been filed challenging the order of the writ court dated 28.09.2022 in W.P.(MD).No.15812 of 2013.

2. The order of the writ Court is challenged mainly on two grounds:

(i) Beyond the cadre strength to be adopted by the Society under the circular dated 02.12.1993, the respondents/board members have appointed three members, which is against Rule 149 of the Tamil Nadu Cooperative Societies Rules, 1988. Such appointments were also made without getting permission, which caused loss to the society. However, the same has not been taken note of



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by the learned Single Judge, while allowing the writ petition, and

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(ii) The second ground that has been raised is that for the mismanagement of the affairs of the society, Section 36 of the Tamil Nadu Cooperative Societies Act deals with disqualification and removal and upon investigation, action can be taken under Section 36 of the Act, however, no limitation whatsoever has been prescribed for taking such action, which was not considered by the learned Single Judge.

On these grounds, the learned Special Government Pleader prays for interference.

3. From the order of the writ Court, it is seen that the proceedings could be initiated under Section 36 of the Act only for misappropriation or for fraudulently retained money or the property or for being guilty of breach of trust. In the case on hand, it is rightly held that none of the ingredients to Section 36 have been satisfied. The writ petitioners being the board of members only appointed three members considering the situation prevailing at the time of appointment and the members have already been terminated within a period of three months from the date of such appointment. For the said appointment that has been made in the year 1996, action has been taken in the year 2005, after the period of board of members was over as early as on 2001.

The learned Single Judge had held that for the appointments that have been



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made by the writ petitioners would not amount to gross mismanagement, which was made considering the emergency situation prevailed at that point of time and therefore, the appellants were not justified in invoking Section 36 of the Act.

4. It is seen from the records that when the ingredients that has been specified under Section 36 of the Act were not available and when there is no misappropriation or any guilty of retaining the property or money or any breach of trust in relation to the society, the action initiated against the writ petitioners do not come under the definition of gross mismanagement. The learned Single Judge had rightly quashed the impugned orders and allowed the writ petition. Hence, no interference is warranted to the findings rendered by the learned Single Judge. Accordingly, the writ petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

(J.N.B.,J.) (S.S.Y.,J.)
14.02.2025

NCC : Yes/No
Index : Yes/No

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