

WP(MD) No.11072 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON
19.11.2024

PRONOUNCED ON
28.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD)No.11072 of 2014 &
MP.Nos.1 of 2014 and 1 of 2015**

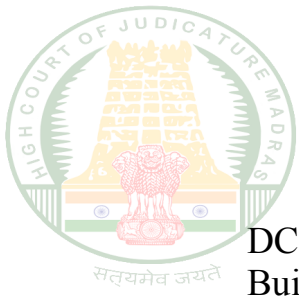
V.Seetharaman

... Petitioner

vs.

- 1.The Registrar of Co.operative Housing Societies,
Tamilnadu Housing Board Building,
2nd Floor, Annex Building, Nandhanam,
Chennai – 35.
- 2.The Regional Deputy Registrar of
Co.operative Housing Societies,
16/1, Samadhu School Opposite
Kaja Nagar, Mannarpuram,
Trichy – 20.
- 3.The Co.operative Sub Registrar/Enquiry Officer,
Dheeran Chinnamalai Transport Corporation,
Employees Co.operative House Building Society Ltd.,
TNSTC Head Office, Opp., to Collector Office,
Periyamilaguparai, Trichy-1.
- 4.M.Kalandhav Naina Mohammed,
Co.operative Sub Registrar (Housing),
Ariyalur/Supervisor,

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DCTC-Employees Co.operative Housing,
Building Society Ltd.,
TNSTC Periyamilaguparai,
Opp., to Collector Office,
Trichy-1.

5.N.Balasubramanian,
Office Superintendent/Co.operative Sub Registrar,
Regional Deputy Registrar of Co.operative Housing
Society Office,
16/1, Samadhu School Opposite,
Kaja Nagar, Mannarpuram,
Trichy – 20.

6.The President,
Dheeran Chinnamalai Transport Corpn.,
Employees Co.operative House Building Society Ltd.,
TNSTC Head Office, Opp., to Collector office,
Periyamilaguparai, Trichy -1.

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned order in Na.Ka.No.1377/2010 Navi(3) dated 21.04.2014 on the file of the 2nd respondent herein and the consequential issuance of summons by the third respondent herein dated 03.07.2014, quash the same and pass such further.

For Petitioner : Mr.N.Anandakumar

For Respondents : Mr.J.K.Jeyaseelan G.A., for RR1 & 3

Mr.S.Seenivasagam for R2

Mr.R.Paul Muruges for R6



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ORDER

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The challenge in this Writ Petition is to the notice of enquiry and the enquiry proceedings.

2. Heard Mr.N.Anandakumar, learned counsel appearing for the petitioner, Mr.J.K.Jeyaseelan, learned Government Advocate appearing for the respondents 1 & 3, Mr.S.Seenivasagam, learned counsel appearing for the second respondent and Mr.R.Paul Murugesh learned counsel appearing for the sixth respondent.

3.Mr.N.Anandakumar, learned counsel for the petitioner would submit that the Dheeran Chinnamalai Transport Corporation Employees Co-operative House Building Society Ltd., was formed in the year 1987 with the object to provide house for the poor employees. He would submit that the petitioner has been working with the society as Secretary and President since 1991 and 2013 respectively without any adverse remarks or blemishes as well as he has constructed 977 houses and handed over to the members so far. He would further submit that through resolution No.3 dated 09.08.2010,



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it was resolved to purchase the land to an extent of 21.72 acres at Kamatchipatti Village and Thandalaiputhur Village and it was fixed as Rs. 9,50,000/- per acre. Further, sale agreement was executed by the society which was represented by the petitioner and the fifth respondent on one hand and the land owners on the other hand and agreed to execute the sale within three months. Further, the proposal was confirmed by five members committee of the society. He would further submit that the first respondent also approved to purchase vacant lands to an extent of 21.72 acres vide order dated 29.09.2010 at the rate of Rs.9,500/- per cent. He would further submit in the said order, it is stipulated that separate proposal for construction of houses should be submitted.

4.He would further submit that the society raised funds from the interested members and purchased an extent of 17.45 acres excluding 4.27 acres, because of the society could not raise the funds to purchase the remaining land. He would submit that the land owner to an extent of 4.27 acres sent a letter that he is not interested to sell the remaining lands due to lapse of time. He would further submit that DTCP approval and centage charges and the expenses incurred for the 4.27 acres was paid by the land



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owner on 29.03.2013 and 19.02.2014. Hence, there was no monetary loss caused to the society. He would contend that the Deputy Registrar (Housing) has issued a notice under Section 81 of the Tamil Nadu Co-operative Societies Act 1983, dated 21.04.2014 appointing third respondent as an enquiry officer to enquire the charges against the petitioner. In furtherance to that, on the same day the fifth respondent sent a notice to the sixth respondent to give explanation for the five charges and also passed an order directing the sixth respondent to suspend the petitioner.

5.He would further contend that the fifth respondent issued notice and passed order on the same day exculpates malafide intention. He would further submit that the enquiry proceedings was also initiated by the third respondent and called the petitioner for enquiry upon an order which was passed against the petitioner without affording an opportunity to give his explanation. He would further submit that the person who involved himself in all the process and aware of the situation passed an order only for personal enmity and grudges against the petitioner. Hence, he would pray the interference of this Court in the impugned order.



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WEB COPY 9.Countering his arguments, Mr.J.K.Jeyaseelan, learned counsel for the respondents submitted that the alleged impugned order is not at all an order in the eyes of law, but it is a proceeding, ordering for an enquiry under Section 81 of Tamil Nadu Cooperative Society Act. He would further submit that this Writ Petition is not at all maintainable and the petitioner can challenge the enquiry proceeding under Sections 153 and 154 of the Tamil Nadu Cooperative Society Act. Dheeran Chinnamalai Transport Corporation employees Cooperative House Building Society Ltd is a house development society for the Tamil Nadu State Transport Corporation employees formerly Known as Dheeran Chinnamalai Transport Corporation Trichy region.

10.He would submit that 311 member-employees applied for housing sites and the society sent a proposal to second respondent to purchase 21.72 acres of lands at Kamatchipatti and Thandalaiputhur Village of Musiri Taluk. He would contend that the society expressed that they are capable of procuring the land at the rate proposed by them and the owner of the land also agreed. In pursuance to that the second respondent sent a proposal to



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the first respondent for approval to purchase the land. The first respondent approved the proposal with certain conditions.

11.He would further submit that the society purchased only 17.45 acres of land without intimating it to the first and second respondents. It is pertinent to note that prior to the purchase proposal sent to DTCP and got layout also for 21.72 acres. All the expenses were borne by the society which is contrary to the condition of approval. As per the condition, administrative clearance must be borne by the allottees. When that being so, the society proceeded with purchase of land without getting advance from the members. Further, he would submit that while getting layout 10% of total extent is reserved for public purposes as per norms. Hence, the society lost 42 cents of land proportionate to 4.27 acres and further the society failed to apply for revised layout after purchase.

12.He would further submit that price for the developed plot has to be fixed by the pricing committee, but in this case the board fixed the price arbitrarily and allotted plot to members and executed the sale deeds unilaterally without bothering to adhere to the norms. He would further



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contend that the Secretary is responsible for day to day affairs of the society and he should report any deviation to the department forthwith. Further, when portions of approved land are not purchased that layout obtained for full extent becomes obsolete and non-executable. But the society has not taken steps to revise the layout.

13.He would further contend that N.Balasubramanian whose land alone was left out from purchasing actually hold agricultural land and after layout changed to residential plot. The society sought for layout even before sale. When Mr.Balasubramanian sold his 1.04 acres of land even beyond the time limit prescribed in the agreement and refused to sell 4.27 acres for the reason time lapsed. Further, the society which expressed that they are capable to fund the purchase at the time of agreement refused on the ground that the funds are inadequate to purchase that remaining portion. All these reasons create strong suspicion of connivance and collusion between the administrator of the society and that owner. Hence, the second respondent issued a notice for enquiry on 21.04.2014 and also issued a direction to Society to suspend the secretary.



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14.He would contend that the administration of society and its secretary ought to have informed the department at the right time and further not be ready to rectify irregularities approached this Court and obtained stay order on the enquiry proceedings and proceeded with construction of houses. Because of the irregularities, the second respondent rejected the proposal of the society for construction of houses by society on 20.03.2015. By an another communication, permitted the individuals to construct houses on their own on 22.07.2015 and at the own risk of society subject to the outcome of enquiry and the writ petition. He would further submit that to protect the interest of society, the second respondent froze the account on 23.09.2015 and on the apology and explanation of the administration of the society, the second respondent defreezed the account on 23.11.2015 on certain conditions.

15.He would further submit that the first respondent rejected the proposal to construct houses on 13.01.2016 and in furtherance to that, the second respondent imposed ban on 21.01.2016 for proposed construction. He would further submit that the first respondent issues a direction to the bank to freeze the account of the society on 10.03.2016. He would further

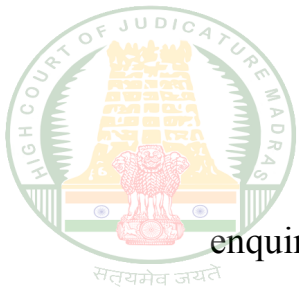


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expostulate that the enquiry proceeding was issued by the fifth respondent, as per office procedure, Section 81 enquiry proceeding notice was passed by the second respondent and informed by the fifth respondent. He would contend that by challenging the enquiry proceeding notice, the petitioner is trying to evade from the illegality that he had committed. Further, it is necessary to conduct the enquiry and reveal the truth in the interest of society. Hence, he would pray this Court to dismiss the Writ Petition.

16. I have heard the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

17.A primordial contention of the petitioner in this Writ Petition is only on the malafide intention of the fourth and fifth respondents, the order impugned has been passed. He had raised the contention that the fifth respondent who was the then Special Officer, was instrumental in passing various Resolutions and holding the Post of Superintendent of the Co-operative Sub-Registrar at the Office of the second respondent has been instrumental in the proceedings initiated against the sixth respondent Society to meet out his aspirations. Even though, the same had been refuted, it should be seen what has been issued is a notice under Section 81 for the



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enquiry into the allegations against the affairs of the Society as managed by the petitioner who is the Secretary of the said Society.

18.It is not the case of the petitioner that the notice is issued without jurisdiction or is contrary to the provisions of the statute. All that he has alleged is malafides in the initiation of proceedings and such malafides have been alleged against the Enquiry Officers and some of the Officers who are at the helm of affairs of the Office of the second respondent at that relevant point of time. It is almost a decade that the impugned notice had been issued. The alleged Officers would also not be at the helm of affairs as now. But, however considering the fact that Section 81 proceedings had been initiated against the petitioner by the respondent, there shall be a direction to the first respondent to appoint an independent Enquiry Officer, who had not been involved into the affairs of the sixth respondent Society in any manner and the petitioner shall make himself available for the enquiry with the said officer concerned and such enquiry shall be completed within a period of six months from the date of receipt of a copy of this order. On receipt of such report under Section 81, further proceedings can be taken out in that regard.



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19. With the aforesaid observations and directions, this Writ Petition

stands disposed of. However, there shall be no order as to costs.

Consequently, connected miscellaneous petition is closed.

28.01.2025

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Gba

To

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K.KUMARESH BABU.,J.

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A Pre-delivery order made in
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