



W.P.(MD).No.10871 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

W.P.(MD).No.10871 of 2023

Arumuga Nainaar

... Petitioner

Vs.

1.The Registrar of Cooperative Societies (Housing),
Tamil Nadu Co-operative Housing Federation,
No.48, Retherathan Road,
2nd Floor, Vepperi,
Chennai-7.

2.The Deputy Registrar of Co-operative Societies (Housing),
Tirunelveli,
Tirunelveli District.

3.The Senior Inspector/Enquiry Officer,
Office of the Regional Deputy Registrar,
of Co-operative Societies (Housing),
Tirunelveli Region,
Tirunelveli District.

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Ceritorari, calling for the records pertaining to the impugned order dated 03.10.2022 passed by the second respondent in Na.Ka.No.1835/2021/E1 and quash the same as illegal.



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For Petitioner : Mr.L.Shaji Chellan
For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader
for R1 to R3

ORDER

This Writ Petition has been filed in the nature of Certiorari, seeking records of the notice dated 03.10.2022 issued by the second respondent in Na.Ka.No.1835/2021/E1 and quash the same.

2. The petitioner claims that he is not an employee of the Co-operative Society and he is a stranger and not a member of the Society. He had earlier questioned proceedings under Section 81 of the Co-operative Societies Act. That writ petition was dismissed by a learned Single Judge of this Court in common order in W.P(MD).Nos.2359 to 2361 of 2023 dated 06.02.2023, in the case of *Arumuga Nainaar and another vs. The Registrar of Co-operative Societies (Housing), Tamil Nadu Co-operative Housing Federation and others*. I am informed that a writ appeal filed against the said order was also dismissed by the Division Bench of this Court by order dated 24.03.2023 in



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W.A.(MD).No.345 of 2023 in the case of *Arumuga Nainaar vs. The Registrar of Co-operative Societies (Housing), Tamil Nadu Co-operative Housing Federation and others*. Consequent to that, the impugned notice has been issued calling upon the petitioner to submit the documents.

3. A perusal of the records would show that the petitioner retired as Auditor. It is alleged that he had conspired with the members of the Society, thereby causing loss to the Society. The charge of conspiracy applies not only to a member of the Society but to every participant of the conspiracy. It is for the petitioner to clear his name and he can clear his work only by producing the documents. The charge of conspiracy is very serious. It is seen that the charge is that two members of the Society, namely, Masuthu and K.Palanimurugan, had made fake transactions to 16 non-members and sold the plots of the Tamil Nadu Electricity Employees Housing Society and caused huge loss to the Society. If as an auditor, the petitioner had been directly or indirectly involved either in the creation of fake transactions or in the enabling of sale to 16 non-members or in the creation of loss to the Society, the petitioner is answerable to the



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charges which had initiated under Section 87 of the Act. He cannot escape from the said charges.

4. The learned counsel appearing for the petitioner drew the attention of this Court to an order passed by a Co-ordinate Bench of this Court in W.P(MD).No.127 of 2023, wherein, the very same learned Single Judge, who had dismissed the writ petition of the petitioner in W.P(MD).No.2359 to 2361 of 2023, had granted stay. That order cannot be binding on this Court. The writ petition filed by the petitioner questioning the proceedings under Section 81 of the Act had been dismissed and the writ appeal has also been dismissed. Further proceedings has been initiated under Section 87 of the Act against him.

5. The learned counsel appearing for the petitioner had drawn my attention to the provisions of Section 87 of the Act. It also includes the word “*any person, who is or was entrusted*” with organization or management of the Society. This would not only mean a member of the Society but any person, who was directly or indirectly involved in committing fraud by making fake transaction and selling housing plots to



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non-members and creating loss to the Society. Necessarily notice has to be issued. The impugned notice is only a notice calling for the petitioner to appear for enquiry. I am not impressed with the arguments advanced by the learned counsel appearing for the petitioner.

6. Accordingly, this Writ Petition is dismissed. The petitioner is granted time till **10.05.2023** to answer to the notice issued against him.

28.04.2023

Index: Yes/No
Internet: Yes/No
ssb



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C.V. KARTHIKEYAN, J.

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