

(2015) 09 MAD CK 0078

In the Madras High Court

Case No : C.R.P.(NPD)(MD) No. 2081 of 2015 and M.P.(MD) No. 1 of 2015

Srirangam Cooperative Building Society Limited

APPELLANT

Vs

N. Srinivasan

RESPONDENT

Date of Decision : 29-09-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 9

Tamil Nadu Co-operative Societies Act, 1983 — Section 156

Citation : (2015) 5 LW 533

Hon'ble Judges : P. Devadass, J.

Bench : Single Bench

Advocate : M.P. Senthil, for the Appellant

Final Decision : Dismissed

Judgement

P. Devadass, J.—As this matter involves a very short point, we shall dispose of the revision today at the admission stage itself. The Srirangam Co-operative Building Society Limited/defendant in O.S. No. 1693 of 2007 has directed this revision.

2. The Plaintiff, who rose to the position of a Secretary from the post of Clerk, was dismissed by way of disciplinary proceedings. He filed O.S. No. 1693 of 2007 seeking:

"(a) declaration that the proceedings of the defendant commencing from charge memo dated 31.10.2003 and culminated in proceedings dated 16.11.2006 are all ab initio void, illegal, without jurisdiction, malafide, ultra vires the powers of the defendant and violative of principles of natural justices and for the consequential relief of mandatory injunction directing the defendant to settle the terminal benefits of the plaintiff.

(b) permanent injunction restraining the defendant, their men, agents, servants anybody acting through them or under them from in any manner committing any breach of obligation of the service regulation."

3. The revision Petitioner/Cooperative Society filed written statement, contested the suit, inter-alia, it had also contended that the suit is barred by the provisions of Section 156 of the Tamil Nadu Cooperative Societies Act. An issue as to the jurisdiction of the trial (Civil) Court also has been framed. Evidence let in, both sides argued. Ultimately on 16.10.2014, the trial Court ruled the said issues as against the Petitioner and decreed the suit as prayed for.

4. Now the Cooperative Society directed this revision on the ground that the decision of the trial Court that it has jurisdiction is excess of jurisdiction in view of Section 156 of the Tamil Nadu Cooperative Societies Act.

5. In this connection, the learned counsel for the revision petitioner invited out attention to section 156 of the Tamil Nadu Co-operative Societies Act, which runs as under:

"156. Bar of jurisdiction of Civil Courts- Notwithstanding anything contained in any other law for the time being in force no order or award passed, decision or action taken or direction issued under this Act by an Arbitrator, a liquidator, the Registration or an officer authorized or empowered by him, the Tribunal or the Government or any officer subordinate to them, shall be liable to be called in question in any Court and no injunction shall be granted by any Court in respect of anything which is done or intended to be done by or under this Act."

6. I have anxiously considered the rival submissions of both sides, perused the materials on record and also the provisions of law.

7. Every civil Court has jurisdiction to try a suit of a civil in nature. Ousting of the civil Courts jurisdiction cannot be readily accepted. Civil Court's jurisdiction may be excluded by an expression in a statute. But, in case of any action being taken by any authority in excess of their jurisdiction, not following the principles of natural justice and not following the concerned statutory rules or the action is malafide in nature or it is as against fundamental judicial procedure, a suit to declare such action as invalid, inoperative, void ab initio can always be maintained.

8. This principle of law has been well-established. Now in this case, the respondent has been dismissed from service of the defendant. This has been challenged by the respondent as void ab initio raising certain allegations in the plaint. This aspect has been gone into by the trial Court. We are not going into the merits of the matter as the jurisdiction in this revision is limited to the point whether the trial Court is lacking jurisdiction or exceeded its jurisdiction. The language of law employed in Section 156 of the Tamil Nadu Cooperative Societies Act is sweeping in nature. When the plaint contains averments as to the disciplinary action taken is void ab initio on certain aspects, Section 156 of Tamil Nadu Cooperative Societies Act will not silence such a grievance being canvassed before the civil court because it is a suit of a civil nature. Under Section 9 of the Civil Procedure Code (See The Musiri Cooperative Agriculture and Rural Development Bank Ltd. v. Ranganathan, (1995) 1 MLJ 67). Therefore we sustain

the ruling of the trial Court made as against the revision Petitioner/defendant. The scope of this Court in the revision is very limited, namely as to whether the decision of the trial Court as to its jurisdiction is sustainable in law or not. We have sustained it. As regards the merit aspect with regard to the said issue or other issues dealt with in the impugned judgement of the trial Court, there is always appeal remedy available to the revision Petitioner.

9. We make it clear that this order will not disentitle the revision Petitioner from preferring a regular appeal before a Competent Court. This Civil Revision Petition is dismissed with the said observations. Consequently, connected Miscellaneous Petition is dismissed. No costs.