



C.R.P.Nos.1238 & 1240 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 29.03.2023

Delivered on 28.04.2023

CORAM:

The Hon'ble MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.R.P.Nos.1238 & 1240 of 2021

C.R.P.No.1238 of 2021

The Managing Director,
Tiruvannamalai District,
Central Co-operative Bank,
Tiruvannamalai.

...1st Respondent/Petitioner

-Vs-

1.Venkatesan
S/o.Munusamy Naidu,
Retired General Manager,
Tiruvannamalai District.

...1st Appellant/1st Respondent

2.A.N.Janakiraman
H.V.P.Nagayya,
Retired Joint Registrar/
Managing Director,
Tiruvannamalai District,
Central Co-operative Bank,
Tiruvannamalai.

...2nd Appellant/2nd Respondent

3.The Joint Registrar Co-operative Societies,
Tiruvannamalai.

...1st Respondent/3rd Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed by the learned Principal District Judge / Co-operative Tribunal in CTA.No.2 of 2014, dated 21.08.2019.



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For Petitioner	: Mr.P.K.Shivakumar for Mr.M.S.Palaniswamy
For R1 & R2	: Mr.A.Praveen Kumar for Mr.P.Anbarasan
For R3	: Mr.V.Jeevagiridharan Additional Government Pleader

C.R.P.No.1240 of 2021

The Managing Director,
Tiruvannamalai District,
Central Co-operative Bank,
Tiruvannamalai.

...1st Respondent/Petitioner

-Vs-

1.Venkatesan
S/o.Munusamy Naidu,
Retired General Manager,
Tiruvannamalai District.

...1st Appellant/1st Respondent

2.The Joint Registrar Co-operative Societies,
Tiruvannamalai.

...1st Respondent/2nd Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed by the learned Principal District Judge/Co-operative Tribunal in CTA.No.3 of 2014, dated 21.08.2019.

For Petitioner	: Mr.P.K.Shivakumar for Mr.M.S.Palaniswamy
For R1	: Mr.A.Praveen Kumar for Mr.P.Anbarasan
For R2	: Mr.V.Jeevagiridharan Additional Government Pleader



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COMMON ORDER

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These Civil Revision Petitions had been filed by the Central Co-operative Bank, Tiruvannamalai, against the order passed by the learned Principal District Judge/Co-operative Appellate Tribunal, Tiruvannamalai, in C.T.A.No.2 of 2014 and C.T.A.No.3 of 2014, dated 21.08.2019.

2.Some relevant facts of the case for appreciation of the case are as follows:

2.1.C.T.A.No.2 of 2014 is filed against the *suo motu* surcharge order No.1 of 2000-2001, dated 24.01.2014 for recovery of sum of Rs.6,00,000/- against the Respondents and one other person. C.T.A.No.3 of 2014 is filed against the *suo motu* surcharge order No.2 of 2000-2001 dated 24.01.2014 for recovery of sum of Rs.60,400/-.

2.2. Thiru.Venkatesan worked as General Manager, Tiruvannamalai District Central Co-operative Bank and Thiru.A.N.Janakiraman worked as Managing Director of the same Bank. In the year 1998, there was a policy of the Government that all Government Departments should be computerized. It should be upgraded by using technology. Therefore, in



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continuation of the State Government Policy, the Bank decided to install computers for providing better services to the clients. Therefore, the Bank had decided to procure computers, to install software for the purpose of Banking, and also to impart training to the staff and officers in operating computers for the daily requirement of the Bank. Accordingly, the contract went to Caravan Computers which agreed to procure computers for the Bank and to install software to enable the Bank to perform effectively and to impart training to the staff. After procuring computers and installing computers, the Caravan Computers Company did not come forward to install software and also to impart training to the staff of the Tiruvannamalai District Central Co-operative Bank. On *suo motu* inspection made by the Joint Registrar of the Co-operatives, Tiruvannamalai, he found that the contract given to Caravan Computers had ended up in loss. Even after six months, Computer software was not installed and training was not given to the staff and officers of Tiruvannamalai District Central Co-operative Bank. Therefore, the Bank had suffered losses. That is the finding given by the Joint Registrar of Co-operative Societies, Tiruvannamalai. On *suo motu* inspection in 1996 an inquiry was conducted and Bank surcharge proceedings was initiated under Section 87 of the Tamil Nadu Co-operative



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Societies Act, 1983 wherein the Respondents in C.R.P.Nos.1238 & 1240 of 2021 were imposed with surcharge proceedings of Rs.2 lakhs each. Aggrieved by the same, Respondents 1 and 2 preferred the Appeal before the Special Appellate Tribunal under the Co-operative Societies Act/the learned Principal District Judge, Tiruvannamalai. After hearing both parties, the learned Principal District Judge, Tiruvannamalai, had allowed the Appeals and set aside the order of the surcharge proceedings. Therefore, the Bank had filed the present Civil Revision Petitions to set aside the order of the learned Principal District Judge, Tiruvannamalai, passed in Appeals C.T.A.Nos.2 and 3 of 2014 and to restore the order of the surcharge proceedings.

2.3. It is the case of the Revision Petitioner that the Central Co-operative Bank, Tiruvannamalai, had engaged Caravan Computer Services after receiving quotation for computers hardware, software and for training staff and officers of the Central Co-operative Bank, Tiruvannamalai. The computers worth of Rs.43,96,040/- were purchased.

2.4. As per the contract, the Company that installed computers has to



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provide software and also train the staff and officers of the Central Co-operative Bank, Tiruvannamalai. The Caravan Computers engaged by the Central Co-operative Bank, Tiruvannamalai, had installed computers but failed to install software and impart training to the staff and officers for more than six months. Subsequently, the officers of the Central Co-operative Bank, Tiruvannamalai, the Respondents herein had engaged another Company by name Vasavi Computers from Tiruvannamalai for installing software without insisting for repayment of the amount from Caravan Computer Service for not installing software and for causing loss to the tune of Rs.7,35,000/- to the Bank.

2.5. The learned Counsel for the Revision Petitioner invited the attention of this Court that earlier an order of surcharge was passed for recovery of total amount of Rs.51.31 lakhs by the Joint Registrar, Tiruvannamalai, against the Respondents and two others vide order dated 18.08.2003. In the Appeal filed against the said order before Co-operative Tribunal, Tiruvannamalai, the said order was set aside vide order dated 16.12.2005. The aggrieved parties filed W.P.Nos.19751, 19752 and 16405 of 2006 and 16406 of 2006. In the said Writ Petitions one, D.Kotteswaran,



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since retired as General Manager, undertook to pay the loss of Rs.1,35,000/- along with interest of Rs.1,16,351/- thus a total of Rs.2,51,351/- towards his liability. Thus the said amount was recovered from his terminal benefits vide order in W.P.No.16406 of 2006. In respect of the other Writ Petitions, this Court set aside the order passed by the Joint Registrar and the District Appellate Tribunal and fresh enquiry was ordered to be held and to be completed within six months. Subsequent to which, the Joint Registrar conducted fresh enquiry against the Respondents herein and one other person and Rs.6 lakhs was imposed as surcharge. Against which, they had filed C.T.A.Nos.2 and 3 of 2014. The learned Principal District Judge/Co-operative Societies Appellate Tribunal passed common order in C.T.A.Nos.2 and 3 of 2014 dated 21.08.2019 setting aside surcharge proceedings and allowed the C.T.A.Nos.2 and 3 of 2014. Aggrieved by the same, these Civil Revision Petitions had been filed to set aside the order of learned Principal District Judge, Tiruvannamalai in C.T.A.Nos.2 and 3 of 2014 dated 21.08.2019 and to restore the surcharge proceedings.

2.6. The learned Counsel for the Revision Petitioner submitted that the learned Principal District Judge, Tiruvannamalai, had set aside the



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surcharge proceedings without considering the salient features of the surcharge proceedings. The learned Principal District Judge/Co-operative Special Appellate Tribunal, Tiruvannamalai, failed to consider the observation made by the Hon'ble High Court in W.P.Nos.19751, 19752 and 16405 of 2006, dated 19.06.2013. The learned Principal District Judge/Co-operative Special Appellate Tribunal, Tiruvannamalai, under the Tamil Nadu Co-operative Societies Act, 1983 failed to see that the General Manager and Managing Director have overall control of the affairs of the Bank and they failed to verify the capability of suppliers of computer contract. The non-installation of software resulted in the Bank suffering huge losses. The Co-operative Special Appellate Tribunal failed to see that Respondents 1 and 2 wilfully failed to follow the circular issued by the Registrar of Co-operative Societies, which resulted in the Bank suffering huge losses. The Co-operative Special Appellate Tribunal failed to take note that Respondents 2 and 3 who were responsible Officers having control over the Bank during the relevant time, could not shift the burden on other Officers. The Co-operative Special Appellate Tribunal ought to have dismissed the Appeals and confirmed the surcharge order passed against the responsible Senior Officials. The Co-operative Special Appellate Tribunal



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failed to see that the 1st Respondent appointed two Directors at the time and they were paid salaries of Rs.4,63,663/- which is wilfull and deliberate act of the 1st Respondent resulting in the Bank suffering loss. The Co-operative Special Appellate Tribunal failed to see that the 1st Respondent was the General Manager of the Bank and he had wilfully failed to follow the circular issued by the Registrar of Co-operative Societies, Tiruvannamalai, with regard to computerization. In the above circumstances, these Civil Revision Petitions are to be allowed and the order passed by the Co-operative Special Appellate Tribunal in C.T.A.Nos.2 and 3 of 2014 dated 21.08.2019, are to be set aside and the surcharge orders passed against the Respondents are to be restored.

2.7. Mr.Anbarasan, learned Counsel appearing for Respondents 1 and 2 in C.R.P.No.1238 of 2021 and 1st Respondent in C.R.P.No.1240 of 2021 submitted his arguments.

2.8. As per his submission, the 1st Respondent in C.R.P.Nos.1238 & 1240 of 2021, Mr.Venketasan, held the post of General Manager of Tiruvannamalai District, Central Co-operative Bank, and he retired from



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service on 30.09.1998. The 2nd Respondent in C.R.P.No.1238 of 2021 Mr.A.N.Janakiraman, held the post of Joint Registrar, Co-operative Societies and was the Managing Director of Tiruvannamalai District, Central Co-operative Bank, and he retired on 30.06.1998. During 1998, technology was introduced for the computerization of Government Offices and Bank. Till such date, nobody was aware of the computers. Instructions were given to purchase computers. No regulations were given at that time. What was the procedure to be followed was not at all given. The first circular containing regulation in Na.Ka.No.94687/1998 dated 21.07.1998 was received in the office of the Tiruvannamalai District Central Co-operative Bank, only on 22.08.1998. Mr.A.N.Janakiraman retired on 30.06.1998. He does not know anything about the purchase of computers. He did not know anything about procurement or the installation of computers.

2.9. The learned Counsel for the Respondents invited the attention of this Court to the findings of the surcharge proceedings, as follows:-

"1983	ஆம்	ஆண்டு	தமிழ்நாடு	கூட்டுறவுச்
சங்கங்களின்	சட்டப்பிரிவு	கிழ்	09.01.2014	தேதியில்
நடைபெற்ற	இறுதிவிசாரணையின்போது			கேட்கப்பட்ட
கேள்விகளுக்கு	தனது	பூர்வாங்க		பதிலுரையினைக்
கீழ்க்கண்டவாறு	தெரிவித்துள்ளார்.			

கேள்வி எண்.1: கணினி பொருட்கள் வரப்பெற்றது



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குறித்தான இருப்பு பதிவேட்டில் உதவியாளரால் வரவு வைக்கப்பட்ட பதிவுகளை சரிபார்த்துள்ளீரா?

பதில் கணினிகளைக் கொள்முதல் செய்ய வேண்டி வழங்கல் ஆணை 27.05.1998 அன்றுதான் வழங்கப்பட்டது. தான் 30.06.1998 அன்றே ஓய்வு பெற்றுவிட்டதால் கணினிகள் வரப்பெற்ற பதிவுகளை தான் பார்வையிட வாய்ப்பில்லாமல் போனது. கணினிகள் நிறுவப்படுவதையும், மென்பொருட்கள் பொருத்தப்படுவதையும் உதவிப்பொதுமேலாளர் (வளர்ச்சி) அவர்கள் கண்காணிக்க வேண்டும் என்று 27.06.1998 அன்று அலுவலக குறிப்பில் சம்பந்தப்பட்ட கோப்பில் குறிப்பிட்டுள்ளேன்.

கேள்வி எண்.2:பணிக்காலத்தில் கணினி கொள்முதல் (ம) நிறுவுவதற்காக செய்யப்பட்ட செலவினம் அனைத்தும் பொதுக்குழு கூட்டத்தில் தீர்மானம் நிறைவேற்றப்பட்டது என்று கூறியுள்ளீர்கள் அதற்கான ஆதாரம் தேவை.

பதில்: தான் 30.06.1998 அன்று ஓய்வு பெற்றபிறகு தனக்குப் பிறகு வங்கியின் மேலாண்மை இயக்குநராக திரு.என்.நாராயணன் இணைப்பதிவாளர் பொறுப்பு வகித்தார். மேற்கண்ட செலவினங்களை அவரது காலத்தில் பொதுக்குழுவில் ஒப்புதல் பெற்றார் என்று அவர் மூலமாக தெரிந்துகொண்டேன். இதற்கான ஆதாரம் வங்கியில் உள்ளது என்று அறிகிறேன்.

கேள்வி எண்.3:கணினி கொள்முதல் தொடர்பான பதிவாளர் சுற்றறிக்கையில் தெரிவிக்கப்பட்ட நடைமுறைகளை ஏன் பின்பற்றப்படவில்லை?

பதில்: மத்திய கூட்டுறவு வங்கிகளில் கணினிகள் கொள்முதல் செய்யும்போது கடைபிடிக்கவேண்டிய விதிமுறைகள் அடங்கிய பதிவாளரின் சுற்றறிக்கை தான் ஓய்வு பெற்ற பிறகுதான் வழங்கப்பட்டது. இந்த சுற்றறிக்கை ந.க.எண்.94687/98 ஆதொ நாள்.21.07.1998 திருவண்ணாமலை மாவட்ட மத்திய கூட்டுறவு வங்கியில் 22.08.1998 அன்றுதான் வரப்பெற்றதது."

2.10. The learned Counsel for the Respondents also invited the

attention of this Court to Section 87 of the Tamil Nadu Co-operative



Societies Act, 1983, as follows:-

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“87. Surcharge.__ (1) *Where in the course of an audit under section 80 or an inquiry under section 81 or an inspection or investigation under section 82 or inspection of books under section 83 or the winding up of a society, it appears that any person who is or was entrusted with the organisation or management of the society or any past or present officer or servant of the society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society or has caused any deficiency in the assets of the society by breach of trust or willful negligence or has made any payment which is not in accordance with this Act, the rules or the by – laws, the Registrar himself or any person specially authorised by him in this behalf, of his own motion or on the application of the board, Liquidator or any creditor or contributory may frame charges against such person or officer or servant and after giving a reasonable opportunity to the person concerned and in the case of a deceased person, to his representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar or the person authorised as aforesaid thinks just or to contribute such sum to the assets of the society by way of compensation in respect to the assets of the society by way of compensation in respect of the misappropriation, misapplication of funds, fraudulent retainer, breach of trust or willful negligence or payments which are not in accordance with this Act, the rules or the by-laws as the Registrar or the person authorised as aforesaid thinks just:*

Provided that no action shall be commenced under this sub section after the expiry of seven years from the date of any act or omission referred to in this sub section :

Provided further that the action commenced under this sub section shall be completed within a period of six months from the date of such commencement or such further period or periods as the next higher authority may permit but such extended period or periods shall not exceed six months in the aggregate.

(2) Without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force, any sum ordered under this section to be repaid to a registered society or recovered as a contribution to its



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assets may be recovered as if it were an arrear of land revenue and for the purpose of such recovery the Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).

(3) This section shall apply notwithstanding that such person or officer or servant may have incurred criminal liability by this act.

(4) The Registrar or the person authorised by him shall, when acting under this section, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;*
- (b) requiring the discovery and production of any documents;*
- (c) reception of evidence on affidavits;*
- (d) requisitioning any public record from any court or office,*
- (e) issuing commission for examining of witnesses”.*

3. There is no involvement of fraud or cheating in this case. There is no wanton negligence. Software was not installed by the Caravan Computers, for which the Bank had proceeded under the Consumer Disputes Act for the deficiency of service which was awarded after inquiry by the Consumer Forum. Therefore, the Bank had not suffered any loss as stated in the surcharge proceedings. Caravan Computers also conceded that they will clear the doubts regarding training and software.

4. The learned Counsel for the Respondents also invited the attention



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of this Court to the part of the surcharge proceedings wherein the question was raised as follows:-

"கேள்வி.1:10.01.2001 தேதி அறிவிப்பு வழங்கப்பட்டு 18.03.2003 இறுதி ஆணை பிறப்பிக்கப்பட்டுள்ளது. இறுதியாணையினை 6 மாதத்தில் முடிக்க வேண்டும் என்று எதன் அடிப்படையில் தாங்கள் கோருகிறீர்கள்?

பதில்: கூட்டுறவுச் சங்கங்களின் சட்டப்படி தண்டத்தீர்வை நடவடிக்கை வருடத்திற்குள் முடிக்கப்படவேண்டும் என உள்ளது. இத்தண்டத்தீர்வை வழக்கு திருவண்ணாமலை இணைப்பதிவாளரின் 10.01.2001 அறிவிப்பின் மூலம் தொடங்கினார் என்றும், இவ்விசாரனை ரத்து செய்யும்படி மேல்முறையீடு வழக்கு தொடரப்பட்டது என்றும், இதனை முடிவுகட்டும் வண்ணம் 06.08.2003க்குள் முடிக்கும்படி மாண்புமிகு சென்னை உயர்நீதிமன்றம் உத்தரவிட்டுள்ளது என்றும், (உயர்நீதிமன்ற உத்தரவு தேதியிலிருந்து 6 மாதம்) ஆனால் இணைப்பதிவாளர் அவர்களால் 18.03.2003 அன்றுதான் இறுதி ஆணை வழங்கப்பட்டது என்றும் மேல்முறையீடு செய்யும்போது மாவட்ட நீதிமன்றத்திலும் மாவட்ட நீதிபதி அவர்கள் காலாவதியானதை உறுதிசெய்து ஆணை பிறப்பித்துள்ளனார் என்றும் தெரிவிக்கப்பட்டுள்ளது."

5.The learned Counsel for the Respondents contended that surcharge proceedings, if initiated, have to be completed within the period of six months. In this case, it was not completed within the specified time. The learned Counsel for the Respondents also invited the attention of this Court to the finding of the learned Principal District Judge, Tiruvannamalai regarding the surcharge proceeding, as follows:-

"18.But on considering the arguments put-forth by the Appellant Counsel that the 1st Appellant being a General Manager is held responsible for every such act of giving concurrence to the



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purchase of computer, he got retired in the month of 30.09.1998 and the 2nd Appellant got retired in the month of 30.06.1998. Just one month prior to his retirement an order was placed. The subsequent successor Assistant General Manager, would have taken care of while the payment was made. There is no such evidence of misappropriation by these two Appellants, it was not established before the Enquiry Officer. As rightly argued by the Appellants Counsel, the 1st Appellant and 2nd Appellant ought to have followed correct procedure and guidance while purchasing computer that computers could have purchased from reputed companies by receiving quotation and checking out the qualities of computer since the two persons had not made any payment. There act amount to pure carelessness and negligence for which no surcharge proceeding can be initiated.

19.The next successor had taken vigilant steps and it was set right there is no such loss also to the society. Similarly, in respect of surcharge proceedings in respect of Rs.60,400/- as against the 1st Appellant with regard to the agreement entered in to Vasavi Computer Company for imparting the training to the Co-operative Staff, the Appellant being the head is not responsible even though he is duty responsible wihtout non supply of software appliance along with the hardware computer would not have entered into contract with Vasavi Computer. It is also duly proved that software was supplied belatedly and the loss to the tune of Rs.60,400/- has been caused. But the said amount has not been misappropriated by the 1st Appellant, it is purely careless and negligence. The 1st Appellant had not willfully for gain entered into impact, the said fact was not duly proved and established. And Thiru.Narayanan, Retired Joint Registrar, Special Officer of Tiruvannamalai District Central Co-operative Bank stated that

"கிளை ஆய்வின்போது இவ்விஷயம் கண்டுபிடிக்கப்பட்டு, ஊடனடியாக பயிற்சிக்கான உத்தரவு, தொகை பட்டுவாடாவும் நிறுத்தப்பட்டு, ஆரக வழக்கறிஞரிடம் இதுகுறித்து சட்ட அபிப்பிராயம் பெறப்பட்டு, அதன்படி அந்த தொகை அதாவது பயிற்சி சம்பந்தப்பட்ட தொகை ரூ.4,63,663/-க்கு சென்னை கோர்டில் வழக்கு தொடரப்பட்டு, அவ்வழக்கும் முடிவடைந்து, வங்கிக்கு சாதகமாக டிகிரி பெறப்பட்டுள்ளது" என்று கூறியுள்ளார்.



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And also a letter related to recover the above said loss amount was produced by the Respondents before this Court. Hence, on that score also the surcharge proceedings in respect of Rs.60,400/- amount also is set aside.”

6.The learned Counsel for the Respondents submitted that doing business with the reputable Company was not possible at that time. Also, he invited the attention of this Court that in 1999 there was no such large scale awareness about computers and software. There was no knowledge of computers among the common people. Second surcharge proceedings were initiated against Venkatesan alone for Rs.16,400/-. Consumer Forum had granted an award of Rs.4 lakhs for breach of contract deficiency of service. Therefore, the claim of the Revision Petitioners that the conduct of the Respondents resulted in a huge loss to the Revision Petitioner is not proved and is to be set aside.

7.Under those circumstances, the learned Principal District Judge, Tiruvannamalai as Special Appellate Tribunal under the Co-operative Societies Act, on perusal of the records arrived at the logical conclusion that the surcharge proceedings initiated against the Respondents herein Mr.Venkatesan and Mr.A.N.Janakiraman is not at all maintainable and it was set aside. These Civil Revision Petitions filed by the Central Co-



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operative Bank, Tiruvannamalai, against the finding of the Co-operative Special Appellate Tribunal is not at all maintainable and is to be dismissed.

8. Point for consideration:

Whether the order passed by the learned Principal District Judge, Tiruvannamalai, as Co-operative Special Appellate Tribunal in C.T.A.Nos. 2 and 3 of 2014 dated 21.08.2019 are to be set aside and the surcharge proceeding dated 24.01.2014 in தண்டத் தீர்வை எண்:1/2000-01 in ந.க.16744/2000 சபு are to be restored?

9.On consideration of the rival submissions, on perusal of the surcharge proceeding in Na.Ka.No16744/2000 and the order passed by the learned Principal District Judge, Tiruvannamalai, as Special Appellate Tribunal under the Co-operative Societies Act, it is found that the surcharge proceedings initiated by the Co-operative Societies Department is not as per Section 87 of the Tamil Nadu Co-operative Societies Act.

10.As pointed out by the learned Counsel for the Respondents, only if there is wanton or wilfull negligence it can be considered as causing loss by wilfull default or negligence by the persons in authority. The General Manager and Managing Director of Tiruvannamalai District Central Co-



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operative Bank had, in the interest of the Central Co-operative Bank, computerised the Bank operations. Therefore, they had engaged Caravan Computers for installation of computer software, for imparting training to the staff of Tiruvannamalai District Central Co-operative Bank. The Caravan Computers had not installed the computer software and not imparted training as per the agreement. Therefore, they had approached the Consumer Forum and the Consumer Forum had awarded compensation for the deficiency of service by the Caravan Computers. Therefore, the contention of the Revision Petitioner that the conduct of the General Manager and Managing Director of Tiruvannamalai District Central Co-operative Bank caused loss to the Co-operative Bank is not acceptable and reasonable. Therefore, the question of wanton negligence attracting Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. Here those material facts are absent to attract Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. Also, in the surcharge proceedings itself the Respondents had stated that in the Consumer Forum they had claimed compensation award for deficiency of service. Rs.4 lakhs was awarded to the Tiruvannamalai District, Central Co-operative Bank, for the deficiency of service in the failure to install computer software by the Caravan



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Computers and failure to impart training in computer softwares to the staff and officers of the Bank. The circular cited by the Joint Registrar Co-operative, Tiruvannamalai, in the surcharge proceedings was only after the retirement of Mr.A.N.Janakiraman, Managing Director of Tiruvannamalai District Central Cooperative Bank. He retired on 30.06.1998, whereas the circular was issued on 22.08.1998. Therefore, surcharge proceedings itself is vitiated and barred under Section 87 of the Tamil Nadu Co-operative Societies Act.

11.On perusal of the surcharge proceedings and the disposal of the Appeals by the learned Principal District Judge/Co-operative Societies Appellate Tribunal, Tiruvannamalai, the order of the learned Principal District Judge, Tiruvannamalai, is not found perverse.

12.When the Managing Director and the General Manager of the Tiruvannamalai District Central Co-operative Bank had taken care to implement computerization and the Company to which they had given the contract for purchase of computers, installation of computer softwares and training to the staff and officers of Tiruvannamalai District Central Co-



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operative Bank, the Company which took up the work viz., Caravan Computers having installed computers but not installed software and not imparted training for which the Bank had approached the Consumer Forum for deficiency of service. The Consumer Forum having awarded compensation, the surcharge proceedings initiated against the Respondents were set aside by the learned Principal District Judge, Tiruvannamalai, as the surcharge proceeding was not in accordance with Section 87 of the Tamil Nadu Co-operative Societies Act. Therefore, the learned Principal District Judge, Tiruvannamalai, has set aside the order passed by the Joint Registrar of Co-operative Societies, Tiruvannamalai, in ந.க.16744/2000 ஈபு dated 24.01.2014 in தண்டத் தீர்வை எண்:1/2000-01.

13.On consideration of the order passed by the learned Principal District Judge, Tiruvannamalai, as Co-operative Societies Special Appellate Tribunal, nothing is found perverse in the order passed by the learned Principal District Judge, Tiruvannamalai. Therefore, the same does not warrant any interference by this Court under Article 227 of the Constitution of India.



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14. In the light of the above discussion, the points for consideration is answered in favour of the Respondents and against the Revision Petitioner.

The order passed by the learned Principal District Judge, Tiruvannamalai, as Co-operative Special Appellate Tribunal in C.T.A.Nos. 2 and 3 of 2014 dated 21.08.2019 is to be confirmed.

In the result, **both the Civil Revision Petitions stand dismissed** and the order passed by the learned Principal District Judge/Special Appellate Tribunal, Tiruvannamalai, under the Co-operative Societies Act in C.T.A.Nos.2 and 3 of 2014 dated 21.08.2019 is confirmed. No costs.

28.04.2023

cda

Index : Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No



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SATHI KUMAR SUKUMARA KURUP, J.,

cda

To

- 1.The Principal District Judge/Co-operative Tribunal,
Tiruvannamalai.
- 2.The Managing Director,
Tiruvannamalai District,
Central Co-operative Bank,
Tiruvannamalai.
- 3.The Joint Registrar Co-operative Societies,
Tiruvannamalai.

**Order made in
C.R.P.Nos.1238 & 1240 of 2021**

28.04.2023