

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.05.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 22842 of 2014

Managing Director,
(Formerly Special Officer)
Dharmapuri District Central
Co-operative Bank Ltd,
10/H, Nethaji Bye Pass Road,
Dharmapuri (Post) and (District)
Pin 636 701 ... Petitioner

Vs

1. The District Co-operative Tribunal
(Principal District Court)
Dharmapuri Post and District
2. The Deputy Registrar of Co-operative Societies
Railway Station Road,
Dharmapuri Post and District
3. M.Sivan ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the first respondent, relating to the order in C.M.A(CS) No.10 of 2010 dated 17.11.2011 and quash the same.

For Petitioner : Mr.P.Anbarasan

For Respondent-1 : Tribunal

For Respondent-2 : Mr.V.Selvaraj
Additional Government Pleader

For Respondent-3 :Mr.G.Ethirajulu

O R D E R

The petitioner has filed this Writ Petition seeking to call for the records of the first respondent, relating to the order in C.M.A(CS) No.10 of 2010 dated 17.11.2011 and quash the same .

2. According to the petitioner, the third respondent has filed an appeal in C.M.A(C.S)No.10 of 2010 against the surcharge order passed by the second respondent in Na.Ka.3131/2009/Sa.Pa2, dated 06.01.2010 under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. At the time of hearing before the Tribunal, the learned counsel for the third respondent contended that the respondent-bank has issued loan to 370 debtors. Out of 370 debtors, 120 debtors had not repaid the loan amount. Hence, the Bank has initiated the proceedings to file the suit against 120 persons and also surcharge proceedings were initiated against the third respondent and other employees with respect to 242 loans. Subsequently, the entire loan amount was recovered by the Bank and the necessary document has also been produced before the Tribunal, which is marked as Ex.A.1. The statement of the learned counsel for the third respondent/appellant therein before the Tribunal was recorded. The learned Government Pleader appeared on behalf of the respondents 1 and 2 therein, has not raised any serious objection during the time of arguments before the Tribunal. Taking into consideration of the said facts, the Court below allowed the appeal. Challenging the said order passed in the appeal before the Tribunal, the petitioner has filed the present Writ Petition.

3. Now, the petitioner has stated that the Tribunal had allowed the appeal without considering the loss sustained by the Bank. As per the contract rate of interest, still there is an outstanding balance amount payable to the Bank by the third respondent.

4. The learned counsel appearing for the third respondent strongly objected for entertaining the writ petition, as the Tribunal has allowed the said appeal after recording the statement of the learned Government Pleader that he has no serious objection with regard to the loss incurred by the Bank. Therefore, the present writ petition is liable to be dismissed.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

6. As stated above, the third respondent has filed an appeal in C.M.A(C.S.No.10 of 2010) and the same was allowed on 17.11.2011 after recording the statement of the learned counsel for the third respondent as well as the statement made by the Government Pleader who appeared before the Tribunal. Now, the present writ petition has been filed challenging the very same order stating that the Bank has sustained the loss and still there is outstanding amount to be recovered from the third respondent. Only for the aforesaid unrecovered amount, the petitioner has filed the present writ petition before this Court.

7. The learned Additional Government Pleader appearing for the second respondent has stated that the counsel appearing for the petitioner before the Tribunal has not raised any objection regarding the above facts before the Tribunal. Now, the said facts has been disputed. Therefore, this Court is not inclined to entertain the writ petition filed by the writ petitioner. If the petitioner has any grievance, they can file appropriate application before the Tribunal for getting the necessary relief. Hence, the Writ Petition is dismissed, with liberty to the petitioner to make appropriate application before the Tribunal, if so advised. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

srn

To

1. The District Co-operative Tribunal
(Principal District Court)
Dharmapuri Post and District
2. The Deputy Registrar of Co-operative Societies,
Railway Station Road,
Dharmapuri Post and District

+1cc to Government Pleader sr.37524

+1cc to Mr.P.Anbarasan,Advocate sr.37442

सत्यमेव जयते

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sv1 (co)

ss (21/6/2017)

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