

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.04.2017

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.Nos.17436 and 17437 of 2016

and

W.M.P Nos.14904 & 14905 of 2016

Mrs.Angammal ... Petitioner in
W.P.No.17436 of 2016

Mrs.S.Rajeswari ... Petitioner in
W.P.No.17437 of 2016

/versus/

1.The Deputy Registrar of Co-operative Societies,
Pollachi, Pollachi Taluk,
Coimbatore District.

2.The Special Officer,
K 815, Rasipalayam Pimary Agriculture
Co-operative Credit Society Ltd.,
Rasipalayam Post,
Coimbatore District. ... Respondents in both
Wps

Common Prayer: Writ Petitions are filed under Article 226 of Constitution of India praying for issuance of Writs of Certiorari calling for the records and quash the impugned orders of the 1st respondent in his order Na.Ka.No.2799/2012 Sa.ba and Na.Ka.No.2803/2012 Sa.ba., respectively dated 17.03.2014.

For Petitioners :Mr.S.Kolandasamy
(both Wps)
For Respondents :Mr.V.Selvaraj, AGP for R1
(both Wps) Mr.L.P.Shanmugasundaram,
Spl.G.P.for R2

COMMON ORDER

The prayer in these writ petitions is for issuance of a Writ of Certiorari calling for the records and quash the impugned orders of the 1st respondent in his order

Na.Ka.No.2799/2012 Sa.ba and Na.Ka.No.2803/2012 Sa.ba. respectively, dated 17.03.2014.

2. According to the petitioners, the petitioners are mother-in-law and wife of the employee viz., D.Sivanandam, who was working as an Assistant Secretary under the respondents' Society. While he was working, he indulged in misappropriation of funds of the Society, to which an enquiry was conducted and a report was submitted. On the basis of the enquiry report, the second respondent initiated surcharge proceedings against D.Sivanandam. Pursuant to the surcharge proceedings, the liability was fixed on D.Sivanandam for a sum of Rs.50,11,785.60 and thereafter, the first respondent has passed a conditional attachment order against the petitioners' property on 17.03.2014. Aggrieved against the said conditional order, the petitioners have preferred the present writ petitions for the aforesaid prayer.

3. The learned counsel appearing for the petitioners submitted that the employee D.Sivanandam got information through the Right to Information Act that the second respondent has forwarded the surcharge proceedings to the first respondent viz., the Deputy Registrar of Co-operative Societies, Pollachi in which it is stated that the second respondent collected the amount of Rs.13,76,872 with interest. The remaining amount of Rs.2,15,420/- including interest should be collected. However, the aforesaid remaining balance amount was paid by D.Sivanandam and the second respondent issued receipt after crediting the remaining balance amount. Therefore, the surcharge amount was collected by the second respondent credited and receipt was also issued to D.Sivanandam. The conditional attachment order passed by the first respondent dated 17.03.2012, after the collection of surcharge amount, is not sustainable and the order passed by the first respondent is liable to be quashed.

4. The learned Additional Government Pleader appearing for the respondents submitted that an alternative remedy is available to the petitioners under Section 152 of the Tamil Nadu Co-operative Societies Act, 1983 by way of appeal concerned appellate Authority, to work out their grievance.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and also perused the materials available on record.

6. On perusal of the records, it is seen that surcharge amount was already collected, credited and receipts were also issued to D.Sivanandam by the second respondent. But, the first respondent has passed the impugned conditional attachment order dated 17.03.2014, without affording an opportunity to the

petitioners to putforth their contentions before him. At the time of passing the conditional attachment order, the petitioners are not in a position to place the above facts before the first respondent.

7. In the light of the fact that the surcharge amount was collected, credited and receipts were also issued to the employee of the Society by the second respondent, the impugned conditional attachment orders dated 17.03.2014 passed by the first respondent are liable to be quashed. Accordingly, the impugned conditional attachment orders dated 17.03.2014 are quashed in so far as the petitioners' properties are concerned and the writ petitions are allowed and the matters are remitted back to the first respondent to consider the petitioners' grievance and pass appropriate orders on merits and in accordance with law, after affording opportunity to the petitioners, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Deputy Registrar of Co-operative Societies,
Pollachi, Pollachi Taluk, Coimbatore District.
- 2.The Special Officer, K 815, Rasipalayam Pimary Agriculture
Co-operative Credit Society Ltd.,
Rasipalayam Post, Coimbatore District.

+2cc to Mr.S.Kolandasamy, Advocate Sr.24922, 24923
+1cc to M/S.L.P.Shanmugasundaram, Advocate Sr.25276

W.P.Nos.17436 and 17437 of 2016

sj[co]
srg 23/06/2017