

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2017

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THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.21132 of 2009 and
MP Nos.1 of 2009 and 2010

M.R.Ravichandran

.. Petitioner

Vs.

1. V.Raguraman
 2. Vadapalani Primary Agricultural
Cooperative Bank, Gingee Taluk,
Rep.by its Special Officer.
 3. The Deputy Registrar of Cooperative
Societies,
Tindivanam
 4. The Cooperative Tribunal,
(The Principal District Judge),
Villupuram District, Villupuram
- ..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records in CMA.No.2 of 2005 dated 23.04.2009 on the file of the fourth respondent herein and quash the same.

For Petitioner : Mr.R.Balakrishnan

For Respondents : No Appearance for R1

: Mrs.D.Geetha for R2

: Mrs.T.Girija,
Government Advocate for R3

: R4 - Tribunal

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ORDER

According to the learned counsel for the petitioner, the petitioner is the cashier of the second respondent bank and the first respondent herein is the Branch Manager of the bank. During the period from October 1987 to September 2003, the first respondent misappropriated a sum of Rs.7,96,041/- by falsification of the Fixed Deposit Account and Jewel Loan and forging the documents. For the same, the second respondent ordered a domestic enquiry against the first respondent. In the enquiry, it was held that the first respondent misappropriated a sum of Rs.7,76,624/-. The first respondent submitted his explanation by letter dated 14.09.2003 admitting the said misappropriation and promised to pay the entire amount by his letter dated 14.09.2003. The enquiry officer held that no office order fixing the duties and responsibilities of the cashier and the first respondent, payment were made by the Branch Manager only, the petitioner cannot be made liable for the same. Hence, the charges were held unproved against the first respondent. As the enquiry officer promised that no action would be taken against the petitioner, out of compulsion, the petitioner paid a sum of Rs.2,75,000/-. On the other hand, the third respondent had passed a surcharge order dated 04.08.2004 to pay a sum of Rs.2,46,041/- with interest eventhough, the petitioner had not committed any misappropriation. Aggrieved by the same, the petitioner filed an appeal in CMA.No.2 of 2005, which was dismissed. Hence, the petitioner has filed the present writ petition.

2. According to the petitioner, the cashier is not responsible for the misappropriation of funds as per the duties and responsibilities. The payments were made by the petitioner only out of compulsion of the manager. Hence, the petitioner / cashier cannot be made liable for payments. Further no sufficient opportunity was granted to the petitioner before the authority. The Appellate court has considered the submissions of the appellant / the petitioner, it is an admitted fact that the petitioner and the first respondent had submitted the letter requesting that they would settle the pending dues. On the basis of the written request, the petitioner and the first respondent paid to the bank for Rs.2,75,000/- each. In view of the aforesaid fact, the Tribunal has dismissed the appeal. Challenging the said appeal, the petition has preferred the present writ petition before this Court.

3. The learned counsel for the petitioner would submit that on the basis of the consent letter obtained from the petitioner and the payment receipts confirmed the liabilities of the misappropriation of funds. But, the cashier cannot be held responsible for the misappropriation done by the first

respondent. The above said factum considered by the enquiry officer and held that charges are not proved against the writ petitioner. In the light of the said enquiry report, the present order passed by the tribunal is liable to be set aside. According to the petitioner, only by force, the consent letter was submitted and the payments were made by the petitioner and the first respondent.

4. The learned counsel for the second respondent would submit that the petitioner has not disputed the said fact before the authority concerned. The petitioner admitted his letter dated 14.09.2003 to pay the amount and as such the amount of Rs.2,75,000/- was paid to the respondent bank. Now, the petitioner denied the aforesaid fact and raised the ground in the appeal. Therefore, the said contention of the petitioner has raised only at the time of filing of the appeal. There is no evidence or materials placed before the authority to prove that the said consent letter has been obtained by force. Hence, the said contention of the petitioner cannot be countenanced and liable to be rejected.

5. In view of the said submissions made by the learned counsel for the parties, it is an admitted fact that the petitioner has made the written request to the respondent bank and also paid the sum of Rs.2,75,000/- to the respondent bank. The petitioner has not disputed the said fact. Thereafter, at the time of enquiry, the petitioner has not raised the grounds that the consent letter was obtained by force. The petitioner has raised the ground only before the Appellate court. There is no other materials have been placed to disprove the said averments of the petitioner that the said consent letter has been obtained by force. Therefore, the said contention of the petitioner is liable to be rejected. Further, the petitioner has already paid Rs.2,75,000/- to the respondent bank, pursuant to the consent letter. In the absence of any materials, this court has rejected the contention of the petitioner. Hence, the other grounds raised by the petitioner cannot require for consideration. Therefore, there is no error or illegality in the order passed by the court below and the writ petition is liable to be dismissed.

6. In the result, the writ petition stands dismissed. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Registrar of Cooperative Societies,
Tindivanam
2. The Cooperative Tribunal,
(The Principal District Judge),
Villupuram District, Villupuram

+1cc to Mr.D.Rakasekar, Advocate, S.R.No.64571
+1cc to Mrs.D.Geetha, Advocate, S.R.No.64351
+1cc to the Government Pleader, S.R.No.65429

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RSI (CO)
CS/05/12/17



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