

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2017

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.R.P.(PD)Nos.2914 to 2917 of 2009  
& M.P.Nos.1,1,1,1 of 2009 and  
M.P.Nos.1,1,1,1 of 2015

- 1.Ramasamy (Deceased)
- 2.Saraswathy
- 3.Priya
- 4.Shanmuga Prakasam
- 5.Tamilselvi

.. Petitioners in  
C.R.P.Nos.2914 to 2916 of 2017

(Petitioners 2 to 5 brought on record as  
LRs of the deceased sole petitioner viz.,  
Ramasamy vide Court order dated  
04.10.2017 made in M.P.Nos.1 and 2 of  
2014 in C.R.P.(PD)Nos.2914 to 2916 of 2009)

Saraswathy

.. Petitioner in  
C.R.P.No.2917 of 2009

सत्यमेव जयते

- 1.Thekkalur Primary Agricultural  
Co-operative Society rep. by  
its President  
Thekkalur, Avanashi Taluk  
Coimbatore District.

- 2.The Deputy Registrar of Co-operative  
Societies,  
Coimbatore.

.. Respondents  
in all CRPs

PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the judgment and decree dated 27.11.2008 passed in Co-operative Societies C.M.A.Nos.95 to 98 of 2005 on the file of the Principal District Court (Co-operative Tribunal) Coimbatore, confirming the Award dated 18.08.1998 passed in Case Nos.1306 to 1309/1998-99 on the file of the Deputy Registrar of Co-operative Societies, Coimbatore.

For Petitioners : Mr.K.Govi Ganesan  
(in all CRPs)

For R1 : Mr.S.Silambanan, Senior Counsel  
for M/S.S.Silambanan Associates  
(in all CRPs)

For R2 : Not ready in notice  
(in all CRPs)

COMMON ORDER

The Civil Revision Petitions are filed against the judgment and decree dated 27.11.2008 passed in Co-operative Societies C.M.A.Nos.95 to 98 of 2005 on the file of the Principal District Court (Co-operative Tribunal) Coimbatore, confirming the Award dated 18.08.1998 passed in Case Nos.1306 to 1309/1998-99 on the file of the Deputy Registrar of Co-operative Societies, Coimbatore.

2. The petitioners in three C.R.P.(PD)Nos.2914 to 2916 of 2009 and respondents in all the four C.R.Ps. are one and the same. The petitioner in C.R.P.(PD)No.2917 of 2009 is the wife of the deceased first petitioner in C.R.P.(PD)Nos.2914 to 2916 of 2009. The issues involved in all the four Civil Revision Petitions are one and the same and hence, all the four Civil Revision Petitions are disposed of by this common order.

3. The first petitioner pledged the jewels with the first respondent society and obtained four different agricultural loans. According to the first respondent, the first petitioner did not pay the principal and interest. The jewels were auctioned as per the rules and regulations and after adjusting the amounts received by the public auction by auctioning the jewels, notice dated 13.05.1998 was issued to the first petitioner to pay the balance amount. The deceased first petitioner received the said notice, but did not send any reply or pay the amount. The first respondent initiated proceedings against the first petitioner before the second respondent/Deputy Registrar for recovery of money. The second respondent issued notice to the first petitioner. The first petitioner did not attend the hearing and contest the matter before the second respondent after receiving notice.

4. The second respondent/Deputy Registrar, by award dated 18.08.1998 in Case Nos.1306 to 1309/1998-99 directed the deceased first petitioner to pay the sum of Rs.10,965/-, Rs.1,520/-, Rs.12,230/- and Rs.24,820/- respectively. The first respondent filed execution proceedings for recovery of amounts.

5. Challenging the exparte award passed by the second respondent/Deputy Registrar against the first petitioner, the first petitioner filed C.M.A.Nos.95 to 98 of 2005. According to the first petitioner, no notice was issued and served on him and without following the procedures contemplated in the rules of notice, public auction was conducted. The first respondent has not stated for how much amounts, jewels were sold. According to the first petitioner, the jewels were sold for a very low price and for the above reason, he prayed for setting aside the award of the second respondent/Deputy Registrar.

6. The first respondent filed counter and denied various allegations made by the first petitioner. According to the first respondent, public auction was conducted as per the rules and regulations, as the first petitioner failed to pay the amounts due

under four agricultural loans. After adjusting the amounts, notice was issued to the first petitioner to pay the balance amount and the first petitioner failed to pay the same. In the arbitration proceedings, notice was sent to the first petitioner and the first petitioner did not contest the arbitration proceedings even after receipt of the notice.

7. The Tribunal called for the documents from the second respondent. On verification of the documents produced, the Tribunal concluded that though the notices issued to the first petitioner were served on him, he did not respond and did not contest the arbitration proceedings and dismissed the appeals in C.M.A.Nos.95 to 98 of 2005 by judgment and decree, dated 27.11.2008.

8. Against the said judgment and decree dated 27.11.2008 made in C.M.A.Nos.95 to 98 of 2005, these four Civil Revision Petitions are filed by the first petitioner. Pending Civil Revision Petitions, first petitioner died. Petitioners 2 to 5 are brought on record as legal representatives of deceased first petitioner.

9. Heard the learned counsel for the petitioners as well as first respondent and perused the materials available on record.

10. The learned counsel for the petitioners reiterated the averments made in the grounds of appeals in C.M.A.Nos.95 to 98 of 2005 and grounds of revisions. In addition to that, the learned counsel for the petitioners contended that the second respondent/Deputy Registrar has no power to award interest at 22% per annum. The second respondent can award only 6% per annum from the date of award. In support of his contentions, he relied on the following two judgments:

(i) **1979 TNLJ 448 (Gurunathan and another v. Villupuram Co-operative Urban Bank Ltd.);**

"... In my view, as it should be on a par with the powers of Courts under Section 34 of the Code of Civil Procedure, the arbitrator also necessarily can grant interest for the post award period only at the rate of six per cent annum notwithstanding the contractual rate of interest by which the parties are bound for the pendente lite period. The respondent will therefore be entitled to interest at the rate of eighteen per cent per annum pendente lite and thereafter at the rate of six per cent per annum on the principal amount. With the above modification in the rate of interest, the Civil Revision Petitions are dismissed."

(ii) **1997 MLJ 112 (R.Srinivasan v. The Special Tribunal for Co-operative Cases, Madurai and others);**

"11. In C.R.P.No.1680 of 1993 only grievance of the petitioner therein (Srirangam Co-operative Housing Society Limited – third respondent in the writ petition) is with regard to reduction of rate of interest from 14.5 per cent to 6 per cent. After hearing the arguments of Mr.V.Raghavachari, learned counsel for the petitioner in the C.R.P., as well as Mr.G.Devadoss and in the light of a direct decision of this Court reported in Gurunathan v. Villupuram Coop. Urban Bank Ltd., 1979 T.L.N.J. 448, I do not find any justification to interfere with the said order of the Court below. As a matter of fact, the appellate Court has merely followed Section 34 of the Code of Civil Procedure and reduced the rate of interest to 6 per cent which cannot be said to be either improper or illegal. As a matter of fact, the contractual rate of interest has been awarded upto the date of the decree and the reduced rate of interest, namely, 6 per cent is applicable only from the date of the award till the date of the realisation. In these circumstances, there is no merit in the revision and the same is dismissed. "

11. The learned Senior Counsel appearing for the first respondent contended that there is no irregularity in the award of the second respondent/Deputy Registrar or judgment of the Tribunal and the interest was charged based on the circular issued by the Registrar of Co-operative Societies and there is no reason to interfere with the said award and prayed for dismissal of the Civil Revision Petitions.

12. The contention of the learned counsel for the petitioners is that without notice, all the jewels were sold for very low price and without notice, award was passed in the arbitration proceedings by the second respondent/Deputy Registrar. Both these contentions were proved as incorrect, when the Tribunal called for records from the second respondent and found that notices were served on the first petitioner and he did not contest the arbitration proceedings. In view of the same, there is no merit in the contention of the learned counsel for the petitioners with regard to the public auction conducted by the first respondent and arbitration award passed by the second respondent.

13. The contention of the learned counsel for the petitioners that the second respondent is not correct in awarding interest at 22% per annum even from the date of award, has considerable force. For the above reason, the award of the second respondent and judgment of the Tribunal in C.M.A.Nos.95 to 98 of 2005 are modified only to the extent that the first petitioner is liable to pay the interest at 6% per annum from the date of award till realisation. In all other aspects, award dated 18.08.1998 passed by the second respondent in Case Nos.1306 to 1309/1998-99 and judgment dated 27.11.2008 passed by the Tribunal in Co-operative Societies C.M.A.Nos.95 to 98 of 2005, are confirmed.

14. With the above modification, all the four Civil Revision Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

10.10.2017

Index : Yes/No  
dm/kj

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**V.M.VELUMANI, J.**

dm/kj

To

- 1.The Principal District Judge  
(Co-operative Tribunal)  
Coimbatore.
- 2.The Deputy Registrar,  
Co-operative Societies,  
Coimbatore.



C.R.P.(PD)Nos.2914 to 2917 of 2009  
& M.P.Nos.1,1,1,1 of 2009 and  
M.P.Nos.1,1,1,1 of 2015 and  
M.P.No.1 of 2014

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