

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (PD) No.2748 to 2751 of 2013

The Administrator
Uthangarai Agricultural Producers
Co-operative Marketing Society Ltd.
Uthangarai, Krishnagiri District.

.. Petitioner
in all civil revisions

Vs.

1. G.Sennappan

.. 1st respondent
in CRP.2748/2013

2. P.Rajamanikkam

.. 1st respondent
in CRP.2749/2013

3. A.Radhakrishnan

.. 1st respondent
in CRP.2750/2013

4. K.Murugan

.. 1st respondent
in CRP.2751/2013

5. The Deputy Registrar of
Co-operative Societies
Dharmapuri.

.. 2nd respondent
in all civil revisions

Revisions filed under Article 227 of Constitution of India against the order dated 04.10.2012 passed by the District Co-operative Tribunal, Krishnagiri, in C.M.A.(CS) No.50 of 2004, 4 of 2005, 8 of 2005 and 14 of 2005 respectively.

For Petitioners : Mr.M.S.Palaniswamy
(In all the revisions)
For Respondent : Mr.S.Venkataraman
for 1st respondent
in CRP.2749, 2750 and
2751 of 2013

No appearance
for 1st respondent in
CRP.2748 of 2013 and
2nd respondent in all
revisions.

COMMON ORDER

The petitioner in these civil revision petitions is the first respondent in the proceedings before the District Co-operative Tribunal (Principal District Judge), Krishnagiri. The petitioner is assailing the common order dated 04.10.2012 passed by the District Co-operative Tribunal (Principal District Judge), Krishnagiri, in C.M.A.(CS) No.50 of 2004, 4 of 2005, 8 of 2005 and 14 of 2005 respectively.

सत्यमेव जयते

2. The facts in a nutshell are as under: The first respondent in each of the civil revisions were working in various capacities under the administration and control of the petitioner society. The petitioner society lodged a complaint against the first respondent in each of the revisions stating that they have misused the cash loan provided for the public distribution system and they colluded together and sold the

petitioner society's cotton goods to the traders in sale auction without following any regulations of the petitioner society and allowed the traders to take the cotton without paying any amount to the society. On the basis of these charges, a sum of Rs.1,60,77,482.13 was levied as surcharge on the first respondents in each of the civil revision and others by the surcharge proceedings of the second respondent dated 07.06.2004.

3. Calling into question the said surcharge order, the first respondents in each of the revisions filed appeals before the Co-operative Tribunal (District Judge), Krishnagiri. The Tribunal, vide the common order dated 04.10.2012, which is impugned in these revisions, allowed the revisions as prayed for.

4. Challenging the said order, the petitioner society has filed this revision for the relief stated supra.

5. I heard Mr.M.S.Palaniswamy, learned counsel for the petitioners in all the Civil Revision Petitions and Mr.S.Venkataraman, learned counsel for the 1st respondent in CRP.Nos.2749, 2750 and 2751 of 2013 and perused the entire records. There is no

representation on behalf of the 1st respondent in CRP.No.2748 of 2013 and 2nd respondent in all the Civil Revision Petitions.

6. The main contention of the learned counsel appearing on behalf of the petitioner is that the learned Tribunal erred in allowing the appeals filed by the first respondent in each of the revisions solely based on the statement of accounts filed before it in 2012, without proper proof of the content of the statement of accounts. In any event, it is submitted that the originals of such accounts were not produced before the Tribunal and the veracity of the statement produced before the Tribunal is not established.

7. He further submitted that when the Tribunal has passed its order purely based on the statement of accounts so filed, the Tribunal ought to have verified the veracity of the said statement and moreover, no notice was issued to the petitioner society to rebut the evidence let in, in the form of such statement produced by the other side.

8. It is further contended that the first respondent in all the revisions along with others employed in the petitioner society caused

loss to the tune of approximately Rs.1.60 Crores by not performing the duty cast on them and securing the value of cotton taken by the traders and that too, strangely without even paying advance or offering security for the sale amount and such persons should not be left scot-free.

9. It is pleaded that the society could not recover any amount for the past 20 years either towards principal or interest and this has put the petitioner society in the red and, therefore, the first respondent in each of the revisions is liable for surcharge.

10. The learned counsel appearing on behalf of some of the employees (first respondents) reiterated the reasons that weighed with the Tribunal and prayed for dismissal of the revisions.

11. It is the specific case of the petitioner society that the loss suffered by it on account of the dereliction of duty on the part of the first respondent in each of the revisions and other employees of the said society had not been made good. It is strange as to how the first respondent in each of the revisions and other employees, allowed traders to take away the cotton goods even without securing the

amount payable by them or receiving advance for such sale. Prima facie, this Court is of the view that the allegations levelled against the first respondent in each of the civil revision is grave.

12. When such grave allegations have been levelled against the first respondent in each of the revisions and surcharge proceedings have been passed, the Tribunal, which is the Appellate Authority, ought to have considered the veracity of the statement of accounts produced before it. It is disputed by the petitioner society that the veracity of the said document was not verified by the Tribunal with reference to the originals, nor the person who made such statement of account was examined to justify its veracity.

13. Admittedly, the petitioner society suffered loss on account of the act of the first respondent in each of the revisions. If the first respondent is to prove that the loss suffered by the petitioner society had been made good by production of any statement of account or any other document, it should be only in the manner known to law, after putting on notice the petitioner society. That apart, it is not in dispute that the disputed document has been admitted in evidence without proof. Without proper proof affidavit, the said

disputed document ought not to have been relied upon by the Tribunal.

14. For the foregoing reasons, these revisions are allowed and the impugned order dated 04.10.2012 is set aside and the matter is remitted to the District Co-operative Tribunal (Principal District Judge), Krishnagiri, to consider the matter afresh, without being swayed away by the observations made above, and pass appropriate orders within a period of two months from the date of receipt of a copy of this order. No costs.

Note: Issue order copy on 20.03.2018
vs

Index : Yes
Internet : Yes

17.02.2017

To

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

M.V.MURALIDARAN, J.

VS



C.R.P.(NPD) No.2748 to 2751 of 2013

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