

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.06.2017

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.22976 of 2016
and
W.M.P.No.19693 of 2016

1. The Secretary
District Police Training Co-operative and
Thrift Society,
District Superintendent of Police Office Complex,
Tiruvannamalai.
2. The Deputy Registrar of Co-operative Societies,
No.55, Kosamada Street,
Tiruvannamalai. ... Petitioners

- Vs -

- 1.G.Ravichandran
2. The Presiding Officer,
The Co-operative Tribunal /
Principal District & Sessions Judge,
Tiruvannamalai. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in his order in Co-operative Tribunal / Principal District Judge, Tiruvannamalai dated 01.02.2016 in C.T.A.No.04 of 2012 and quash the same and consequently permit the petitioner to proceed with the recovery and the loss sustained to the society.

For Petitioner : Mr.L.P.Shanmugasundaram
Special Government Pleader
(Co-operative)

For 1st Respondent : Mr.T.N.Sugesh

O R D E R

According to the petitioners, an award was passed against the 1st respondent on 30.05.2012, under Section 90 of the Tamil Nadu Co-operative Societies Act. Challenging the aforesaid award, the 1st respondent has preferred an appeal in C.T.A.No.4 of 2012 before the 2nd respondent. Since the said appeal was allowed, the petitioners have preferred this writ petition before this Court.

2. According to the learned Special Government Pleader appearing on behalf of the 1st petitioner, the Tribunal has erroneously come to the conclusion that neither the witnesses were examined nor the documents have been furnished to the 1st respondent herein, only on assumption and presumption, the award has been passed against the 1st respondent. The learned Special Government Pleader would further submit that additional documents have been filed before this Court to substantiate the case of the petitioner society. Therefore, the order of the Tribunal is liable to be set aside.

3. The learned counsel for the 1st respondent would submit that the award passed by the 2nd petitioner under Section 90 of the Act, for the amount of Rs.42,143/- plus interest at 20.5% which comes to Rs.1,05,298/- and other expenses of Rs.200/-, totally comes to Rs.1,47,641/- to be paid by both the 1st petitioner society and the 1st respondent jointly and severally. The said award passed by the 2nd petitioner is without any basis, and the same is contrary to law. Further, no documents basis for the charges have been furnished to the 1st respondent. The 1st respondent herein has filed an appeal against the award, by raising a ground that the he has not violated any of the provisions of the Act as contemplated under Section 107 of the Tamil Nadu Co-operative Societies Act. The above said appeal C.T.A.No.4 of 2012 allowed, thereby setting aside the award passed by the 2nd petitioner. The Tribunal, after perusal of the records, has rightly come to a conclusion that the petitioners have neither examined any witnesses nor produced any material documents to prove that the petitioner/Society has sustained loss to the tune of Rs.42,143/- along with interest. The Audit report for the relevant document not served to the 1st respondent. Therefore, the order of the Tribunal is perfectly valid under the law and the writ petition filed by the petitioners is liable to be dismissed.

4. Heard the learned counsel for the parties concerned, and perused the materials available on record.

5. It is seen from the available materials that on the basis of the Audit report, the petitioners have initiated the proceedings under Section 90 of the Tamil Nadu Co-operative Societies Act, for the loss sustained to the Society. The 1st respondent has made a representation dated 01.02.2012 to the 1st petitioner, requesting him to furnish copies of the documents for submitting his explanation that he has not violated the provisions contained in Section 107(1)(b) and (d) of the Tamil Nadu Co-operative Societies Act. On perusal of the award, it is seen that the 2nd petitioner, without considering the said request made by the 1st respondent has passed the award. Therefore, the 1st respondent has filed an appeal, raising the grounds that he has not violated the provisions contained in Section 107 (1)(b) of the Tamil Nadu Co-operative Societies Act, and the above said procedure is barred by limitation. After perusing the records, the Tribunal has held that neither the documentary evidence nor the oral evidence has been adduced by the petitioners to prove the case of the Society, in the absence of any document supporting the case of the society, the appeal preferred by the 1st respondent was allowed by the 2nd respondent Tribunal. Therefore, it is clear that the award passed under Section 90 of the Tamil Nadu Co-operative Societies Act is only on the basis of the audit report and the society has not produced any evidence, further copy of the report have not been furnished to the 1st respondent herein. In the absence of any materials, the contention of the society that the procedures contemplated under Section 107 (1)(a) of the Tamil Nadu Co-operative Societies Act, was not followed by the 1st respondent herein, is liable to be rejected. Therefore, there is no error or illegality in the order passed by the Tribunal.

6. In the above said circumstances, the writ petition fails and accordingly, the same is dismissed. No costs. Consequently, connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssn

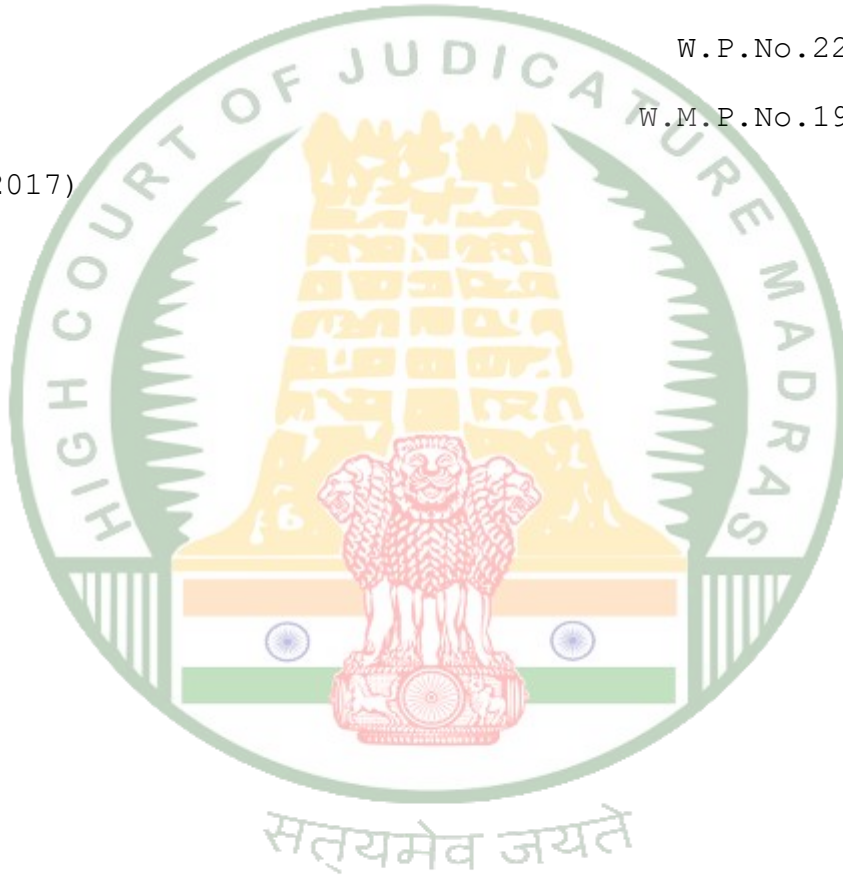
To

The Presiding Officer,
The Co-operative Tribunal /
Principal District & Sessions Judge,
Tiruvannamalai.

+lcc to Mr.T.N.Sugesh, Advocate, S.R.No.43698
+lcc to the Government Pleader, S.R.No.43801

W.P.No.22976 of 2016
and
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SSI (CO)
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