

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2017

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.24758 of 2016
and
W.M.P.No.21162 of 2016

1.R.Balasubramaniyan
2. A.Magbul Basha ... Petitioner

Vs

1. The Presiding Officer,
Co-operative Tribunal /
The Principal District Judge, Cuddalore.

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

3. The Joint Registrar of Co-operative Societies,
Cuddalore.

4. The Management,
E-1430, Virudhachalam Agricultural
Producers Co-operative Sales Society,
Represented by its President,
Virudhachalam.

(R4 is impleaded as per order
dated 04.04.2017 by DKKJ in
W.M.P.No.31460/2016 in
W.P.No.24758/2016.)

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent's relating to the order dated 05.06.2015 in C.M.A.(CS).No.20/2010 to quash the said order dated 05.06.2015 confirming the order in Na.Ka.No.512/2009/KU.NA, dated 09.11.2009 of the second respondent.

For Petitioner	:	Mr. K.Govindaraj
For Respondents	1 to 3 :	Mr. V.Selvaraj Addl.Govt.Pleader
For 4 th Respondent	:	Mr.L.P.Shanmugasundaram Special Govt.Pleader

O R D E R

The petitioner has filed this writ petition against the judgment and decree dated 05.06.2015 passed by the 1st respondent Tribunal / Principal District Judge, Cuddalore, confirming the order passed by the 2nd respondent in the order in Na.Ka.No.512/2009/KU.NA, dated 09.11.2009 of the second respondent and to quash the said order passed by the 1st respondent.

2. According to the first petitioner, he was joined in service as Packer on 21.05.1984 in 'E-1430 - Virudhachalam Agricultural Producers Co-operative Sales Society' remitted at Virudhachalam. Further he was promoted as Salesman on 01.05.1990 and further promoted as Assistant on 28.04.2005. The 2nd petitioner was also appointed as packer and was promoted as Salesman and further promoted as Assistant on the same dates. One Mr.P.N.Rajakulasekaran was serving as storekeeper in the godown attached to the Co-operative Society and the 1st petitioner was working as helper to the said Rajakulasekaran in the godown and the 2nd petitioner was working as salesman.

3. At that stage, the 1st respondent initiated proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983 in Na.Ka.No.2086/08/SA.P.A. Dated 11.02.2009 in respect of alleged loss to the tune of Rs.32,95,075.28 caused by these petitioners.

4. The case of the respondent that the said Rajakulasekaran issued bogus bills for 239.161 metric tonnes of rice received from the Tamil Nadu Civil Supplies Corporation under 'Sampoorna Gramin Rojkar Yojana scheme but without actually delivering rice to the ration staffs and by selling the empty gunny bags. Therefore, recovery proceedings are initiated by the 1st respondent against the petitioners under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. Challenging the said order the petitioners have filed C.M.A.(C.S.)No.20 of 2010 but the same was dismissed and confirming the order passed by the 2nd Respondent-Deputy Registrar of Co-operative Societies, the present writ petition has been filed by the petitioners.

5. The learned counsel for the petitioner would submit that without going into the merits of the case, the writ petitioner has been impleaded the society as party in the aforesaid proceedings before the Tribunal, thereby relying upon the decision rendered by this Court in W.P.(M.D.).Nos.7338 and 7339 of 2012 dated 21.07.2014, wherein this Court has held as follows:-

''8. This is not the first case, wherein this Court has noticed such a flaw committed by Co-

operative Tribunals. In a number of cases, within a short of span of one month, I have noticed that many of the Co-operative Tribunals in the State do not follow the said settled procedure, inasmuch as they, in a casual manner, entertain the appeals and dispose of the same without insisting for impleadment of the parties in whose favour the award has been passed under Section 87 of the Act. I am hopeful that atleast hereafter the Co-operative Tribunals in the State shall avoid the shortcomings indicated herein above.

9. In view of the foregoing discussion, the writ petitions are allowed; the impugned order of the Co-operative Tribunal, Dindigul, in C.M.A.C.S.Nos.14 and 16 of 2004, dated 09.12.2010, is set aside and the matter is remanded back to the Tribunal, which shall suo-motu implead the petitioner Society as a party respondent in the appeals, afford sufficient opportunity to all the parties concerned and then pass appropriate orders, in accordance with law, within a period of six months from the date of receipt of a copy of this order. No costs.'

6. Pending the writ petition, the society has filed the impleading petition and the same was allowed by this Court.

7. In the light of the aforesaid judgment, this Court has no hesitation to set aside the decree passed in C.M.A.(C.S.)No.20 of 2010 and remanded back to the Tribunal which shall suo-motu implead the respondent society as party respondent in the appeal after affording opportunity to the parties concerned in accordance with law as expeditiously as possible within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS III)

//True Copy//

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Sub Assistant Registrar

ssn

To

1. The Presiding Officer,
Co-operative Tribunal /
The Principal District Judge,
Cuddalore.

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

3. The Joint Registrar of Co-operative Societies,
Cuddalore.

4. The President,
E-1430, Virudhachalam Agricultural
Producers Co-operative Sales Society,
Virudhachalam.

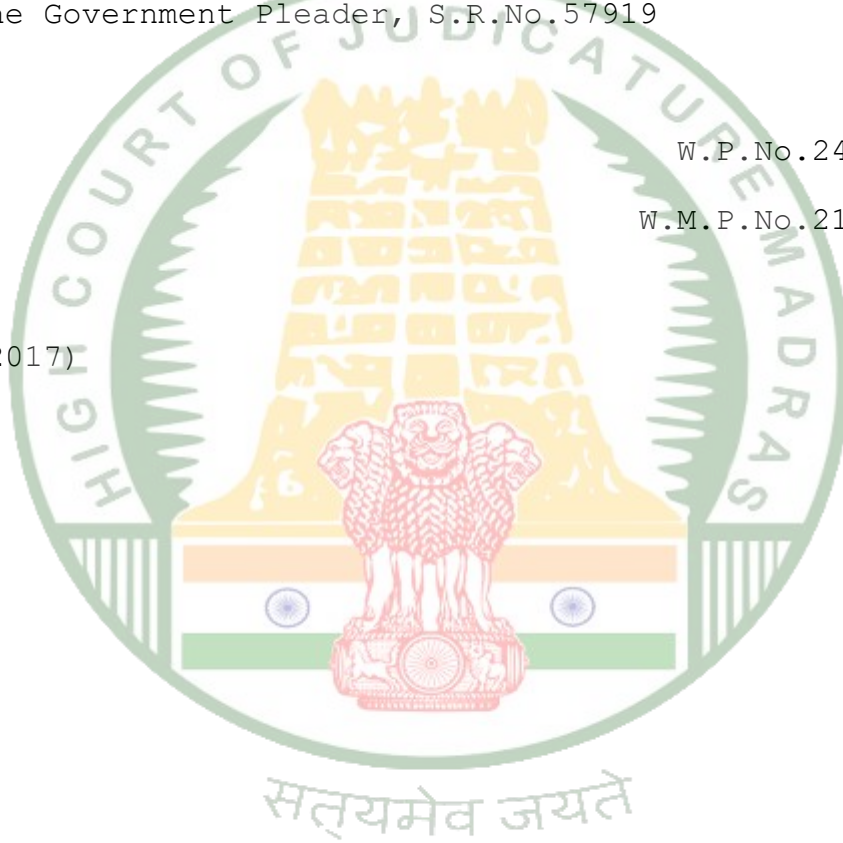
+1cc to Mr.L.P.Shanmuga Sundaram, Advocate, S.R.No.57820

+1cc to Mr.K.Prakash, Advocate, S.R.No.57685

+1cc to the Government Pleader, S.R.No.57919

W.P.No.24758 of 2016
and
W.M.P.No.21162 of 2016

PVS (CO)
GN (07/09/2017)



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