

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2018

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.A.No.1864 of 2018

R.Velayudham Appellant/Petitioner

Vs.

- 1.The Presiding Officer,
Cooperative Tribunal /
Principal District Court,
Cuddalore.
- 2.The Deputy Registrar of Co.op. Societies,
Virudhachalam Circle, Virudhachalam,
Cuddalore District.
- 3.The Special Officer,
I.I.556, Tholar Primary Agricultural
Cooperative Credit Society Ltd.,
Tholar Village & Post, Tittagudi Taluk,
Cuddalore District. Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 19.09.2017 made in W.P.No.22118 of 2013.

Prayer in W.P.No.22118 of 2013:-

Petition filed under Article 226 of the Constitution of India, call for the entire records relating to the impugned order passed by the 2nd respondent in his proceedings Na. Ka. No. 1094/2010 Sa. Pa. dated 11.10.2010 confirmed by the Principal District Judge/ Coop. Tribunal Cuddalore in its order passed in Cooperative C.M.A.No.58/2011 dated 1.3.2013 and quash the same.

For Appellant : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader for R1 to R3

JUDGEMENT

(Judgement of the Court was delivered by M.SATHYANARAYANAN, J.)
By consent, this Writ Appeal is taken up for final disposal.

2. The appellant is the writ petitioner and he suffered a Surcharge Proceedings, being the Secretary of the second respondent Cooperative Society and he made a challenge by filing CMA No.58 of 2011, on the file of the Cooperative Tribunal / Principal District Judge at Cuddalore, who, vide judgement dated 01.03.2013, has found that if commission is attributed to a single person, the same would lead to omission on the part of others and in other words, the Cooperative Tribunal has recorded a finding that the petitioner, being the Secretary in-charge of the disbursement of loan, recovery of loan and verification of accounts in the ration shops, is equally liable and responsible and therefore, dismissed the said appeal. Challenging the legality of the same, the appellant/writ petitioner had filed W.P.No.22118 of 2013 and it was entertained and notices were ordered.

3. The learned Judge, upon hearing the rival submissions, found that one Paramasivam, cashier of the said Society has accepted the guilt and undertook to pay the same and therefore, the entire liability cannot be mulcted on the part of the writ petitioner and granted liberty to the second respondent Society to proceed against Paramasivam initially for recovery of the amount and on his failure to do so, granted liberty to proceed against the writ petitioner and other employees and challenging the legality of the said order, the present Writ Appeal is filed.

4. Mr.C.Prakasam, learned counsel appearing for the appellant would submit that in the light of the admission made by Thiru Paramasivam, Cashier, surcharge proceedings ought not to have been initiated against the appellant/writ petitioner and others and though the learned Judge has recorded the said fact, has granted liberty to the second respondent Society to proceed against the petitioner in the event of recovery not taking effect against Thiru Paramasivam.

5. This Court has considered the rival submissions and also perused the entire materials placed before it.

6. The appellant/writ petitioner has been entrusted with the duties and responsibilities of disbursement of loan, recovery of

loan, verification of accounts in the ration shops, apart from participation in the meetings and the Surcharge proceedings pertains to ineffective supervision of staff and subordinates. The learned Judge, while disposing of the writ petition, has taken note of the admission of Thiru Paramasivam and passed an order granting liberty to the second respondent Society to proceed against Thiru Paramasivam initially and thereafter, against the appellant/writ petitioner and other employees and also stipulated outer time limit to do so. The only grievance expressed by the appellant/writ petitioner is that despite positive direction issued by this Court, the second respondent Society has not taken any action.

7. Therefore, this Court is of the considered view that it would be suffice to direct the second respondent Society to comply with the order passed by this Court dated 19.09.2017 in W.P.No.22118 of 2013, which is the subject matter of this Writ Appeal, as expeditiously as possible and not later than four weeks from the date of receipt of a copy of this order.

8. This Court, on an independent application of mind to the entire materials, is of the considered view that there is no error apparent on the face of the record or infirmity in the reasons assigned in the impugned order and finds no merit in this Writ Appeal.

9. This Writ Appeal is dismissed, subject to the above observations. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Jvm

To

1.The Presiding Officer,
Cooperative Tribunal / Principal District Court,
Cuddalore.

2.The Deputy Registrar of Co.op. Societies,
Virudhachalam Circle, Virudhachalam,
Cuddalore District.

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3.The Special Officer,
I.I.556, Tholar Primary,
Agricultural Cooperative Credit Society Ltd.,
Tholar Village & Post, Tittagudi Taluk,
Cuddalore District.

+1 cc to The Government Pleader, SR.No.83736,82972
+1 cc to Mr.C.Prakasam, Advocate Sr.No.84824
+1 cc to M/s.L.P.Shanmugasundaram, Advocate SR.No.83283

SJ(CO)
CSL/18.12.2018

W.A.No.1864 of 2018



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