

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04-07-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.17155 of 2013

And

M.P.No.1 of 2013

C.M.Ragunathan ... Petitioner

Versus

1.C1363, K.Chettiappanur PACB Ltd.,
Chettiappanur, Vaniyambadi TK
Represented by its Board of Directors
through its President.

2.The Deputy Registrar of Co-op. Societies,
Tirupattur Circle,
Tirupattur,
Vellore District-635 601. ... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records the surcharge proceedings No.1/2013-14 Sa Pa dated 12.4.2013 of the second respondent initiated under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.S.Venkataraman

For Respondent-1 : Mr.P.S.Sivashanmugasundaram

For Respondent-2 : Mr.L.P.Shanmugasundaram,
Special Government Pleader (Co-op.).

O R D E R

A surcharge notice issued by the second respondent under Section 87 (1) of the Tamil Nadu Co-operative Societies Act, 1983, is under challenge in this writ petition.

2. The writ petitioner was an employee of the first respondent-Co-operative Society and retired from service. Based on the enquiry report submitted under Section 81 of the Co-operative Societies Act, action was initiated under Section 87 (1) for surcharge proceedings to recover the financial loss caused to the Co-operative Society. On receipt of the notice issued by the Deputy Registrar of Co-operative Societies under Section 87(1) of the Act, the writ petitioner moved the present writ petition. However, the writ petitioner has to submit his explanations/objections in respect of the notice received under Section 87 (1) of the Act, and after participating in the process of enquiry to be conducted by the competent authority, a final decision is to be taken and an order is to be passed. Thus, challenging to Section 87 (1) notice, cannot be entertained by this Court under Article 226 of the Constitution of India.

3. The surcharge final order passed by competent authority is also an appealable order. The appeal against the surcharge order lies before the Co-operative Tribunal under Section 152 of the Tamil Nadu Co-operative Societies Act, 1983. The Designated Tribunal has to adjudicate the appeal filed challenging the final order passed under Section 87 of the Act.

4. This being the procedure to be followed, the present writ petition, challenging the surcharge notice, cannot be entertained. It is left open to the writ petitioner to submit his explanations/objections and participate in the enquiry proceedings to be conducted by the Deputy Registrar of Co-operative Societies and after the final order is passed and if the writ petitioner is aggrieved even thereafter, then the writ petitioner is at liberty to approach the Co-operative Tribunal under Section 152 of the Act.

5. In this view of the matter, the present writ petition is not maintainable and the same is devoid of merits. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/--

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Svn

To

The Deputy Registrar of Co-op. Societies,
Tirupattur Circle,
Tirupattur,
Vellore District-635 601.

+1cc to M/s.S.Venkataraman, Advocate SR.No.43344
+1cc to Government Pleader Sr.No.43629

AK(CO)
sm:13.7.2018

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