



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (NPD) .Nos.1777 to 1779 of 2016

and

C.M.P (MD) .Nos.8581 to 8583 of 2016

1. The Assistant Director of Handloom and Textiles,
Nagercoil, Kanyakumari District.
...1st Petitioner/Respondent/Petitioner
 2. The Director of Handloom and Textiles,
Chennai.
 3. The Liquidator,
Erathanvilai Weavers Co-operative Production and
Sales Society Ltd,
No.2930, Palloor Village,
Vilavancode Taluk,
Kanyakumari District. ...2nd & 3rd Petitioners/ Respondents
(in all C.R.Ps)
- Vs.
- S.Arumughom ...Respondent/Appellant/ 15th Defendant
(in C.R.P.(MD).No.1777 of 2016)
- S.Sankaranarayanan ...Respondent/Appellant/13th Defendant
(in C.R.P.(MD).No.1778 of 2016)
- T.Selvaraj ...Respondent/Appellant/14th Defendant
(in C.R.P.(MD).No.1779 of 2016)

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the judgment and decree passed C.M.A.(C.S)Nos.13, 14 and 17 of 2007 dated 31.08.2010 on the file of the District Judge, Kanyakumari District at Nagercoil reversing the surcharge order in Tha.K.1/2006/D dated 05.04.2007 passed by Assistant Director of Handloom and Textiles, Nagercoil.

For Petitioner :Mr.M.Karuppasamy
(in all C.R.Ps) Government Advocate

For Respondents : Mr.S.Satheshkumar
(in all C.R.Ps)

COMMON ORDER

These Civil Revision Petitions are directed against the orders dated 31.08.2010, allowing the appeals filed by the respective respondents herein.



2.The respondents herein suffered orders of surcharge on 05.04.2007. Questioning the same, the Civil Miscellaneous Appeals were filed before the learned District Judge, Kanyakumari District at Nagercoil, which were allowed. Questioning the same, these civil revision petitions have been filed.

3.Heard the learned counsel for the revision petitioners as well as the learned counsel for the respondents.

4.The only ground on which the appeals were allowed was that they were barred by limitation. Proviso to Section 87(1) of the Tamil Nadu Co-operative Societies Act, 1983, states that no action shall be commenced under this sub-section, after the expiry of seven years from the date of any act or omission referred to in this Sub-Section. It is further stated that surcharge proceedings should be concluded within a period of one year. In this case, the cause of action i.e, the period of misappropriation is from 01.04.1998 to 31.08.1999. The seven years period ended on 30.08.2006. In this case, surcharge notices were issued on 19.04.2006 itself. Therefore, it is within the limitation of seven years set out in the proviso to Section 87(1) of the Tamil Nadu Co-operative Societies Act. Likewise the proceedings concluded on 05.04.2007 itself. Thus, the limitation period set out in the proviso are amply fulfilled in this case. The Court below has erroneously held that the proceedings are time barred.

5.In this view of the matter, the orders impugned in these civil revision petitions are set aside. Since the Court below has not gone into the merits of the matter, the matters are remanded to the file of the learned District Judge, Kanyakumari District at Nagercoil, for fresh consideration on merits and in accordance with law. The civil miscellaneous appeals shall be disposed of, within a period of three months from the date of receipt of a copy of this order.

6.These Civil Revision Petitions are allowed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-I)

To

<https://hcservices.hcmaur.org/portal/hcservices/> District Judge, Nagercoil,
Kanyakumari District.



+1cc to Mr.M.Karuppasamy, Advocate Sr.No.82881
+1cc to Spl.Government Pleader Sr.No.83056

RMK

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