



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A. (MD) No.424 of 2013

Ilavarasu Murugan (Died)

1.Indrani

2.Hari Vijay Sudharsun

3.Minor.Arjun Sharma

... Appellants / Petitioners

(Minor 3rd Appellant is
rep.by his mother and
natural guardian the first
appellant herein)

-vs-

1. The Principal District Judge
Special Tribunal for Co-operative Cases
Tuticorin

2. The Deputy Registrar / Arbitrator
Kovilpatti

3. The Enquiry Officer /
Co-operative Extension Officer
Vilathikulam
Tuticorin District

4. Puliankulam Primary Agriculture
Co-operative Bank
rep.by its Special Officer
Puliankulam, Kulathur
Vilathikulam Taluk
Tuticorin District

... Respondents / Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set
aside the order, dated 18.03.2013, made in W.P.(MD) No.5837 of
2007, on the file of this Court.

Prayer in WP(MD). 5837/ 2007 :

<https://hcservices.ecourts.gov.in/hcservices/> Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a writ of
Certiorari, calling for the records pertaining to the Judgment and



decree in C.M.A.(C.S.) No.3 of 2002 dated 30.1.2004 on the file of the 1st Respondent, and quash the same.

For Appellants : Mr.R.Subramanian

For Respondents : R1 - Court

Mr.K.Mu.Muthu

Additional Government Pleader for R2 to R4

J U D G M E N T

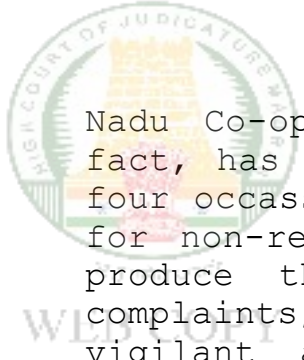
[Judgment of the Court by K.RAVICHANDRABAABU, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 18.03.2013, made in W.P.(MD) No.5837 of 2007, dismissing the writ petition filed by the writ petitioner, challenging the Judgment and Decree, dated 30.01.2004, made in C.M.A.(C.S.) No.3 of 2002, on the file of the Principal District Court / Special Tribunal for Co-operative Cases, Tuticorin.

2. Heard both sides and perused the materials placed before this Court.

3. The writ petitioner was functioning as President of the fourth respondent - Society. Surcharge proceedings were initiated against him and a deficit stock worth about Rs.2,36,549/- was found thereby causing loss of revenue to the Society. After conducting due enquiry, an order was passed holding that Rs.11,771.90 is the loss caused to the Society against the Salesman, Secretary and the writ petitioner. Challenging the said order, the writ petitioner and the Secretary preferred two appeals before the Tribunal in C.M.A.(C.S.) Nos.3 and 6 of 2002 and both the appeals were dismissed by a common order, dated 30.01.2004. Thus, the present writ petition was filed by the writ petitioner challenging the order of the Tribunal. The Writ Court, after finding that the writ petitioner had not taken any action against the erring Salesman in spite of the fact that the Secretary has given four complaints against such person, dismissed the writ petition by holding that the writ petitioner has not made out any case for interference with the order of the Tribunal.

4. Though the learned counsel for the appellants sought to contend that only the Secretary and Salesman are liable for any loss caused to the Society, we are not inclined to accept such a contention, when admittedly, the writ petitioner was functioning as the President of the Society at the relevant time and therefore, he cannot shirk his responsibilities and duties by shifting the onus or burden on the other officials. Moreover, in this case, the enquiry conducted under Section 81 of the Tamil



Nadu Co-operative Societies Act reveals that the Secretary, in fact, has intimated the President, namely, the writ petitioner on four occasions recommending stringent action against the Salesman for non-remittance of the sale proceeds and for his failure to produce the register for verification. In spite of those complaints, the fact remains that the writ petitioner was not vigilant and had not taken any action against such erring Salesman. When such being the position, the liability was rightly fixed on the writ petitioner, which was confirmed by the Tribunal as well as by the Writ Court. Those findings of fact rendered by the Writ Court as well as by the Tribunal cannot be brushed aside as irrelevant. Therefore, we do not find any reason to interfere with the order passed by the Writ Court.

5. In the result, the writ appeal fails and it is dismissed.
No costs.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To:

1. The Principal District Judge,
Special Tribunal for Co-operative Cases,
Tuticorin.
2. The Deputy Registrar / Arbitrator, Kovilpatti.
3. The Enquiry Officer /
Co-operative Extension Officer,
Vilathikulam, Tuticorin District.
4. The Special Officer,
Puliankulam Primary Agriculture
Co-operative Bank,
Puliankulam, Kulathur,
Vilathikulam Taluk,
Tuticorin District.

+ 1 cc TO Mr.R.Subramanian , Advocate in SR No. 69179
+ 1 cc TO The Special Government Pleader in SR No. 69393

krk

AE/SKN RSK/SAR4/03.07.2018/3P/7C

W.A. (MD) No.424 of 2013
21.06.2018