



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.7210 of 2011

and

M.P (MD) No.2 of 2011

A.Palani

... Petitioner

Vs.

1.The Deputy Registrar of
Cooperative Societies,
Cooperative Department,
Perumalpuram Post,
Tirunelveli-7.

2.The General Manager,
Tirunelveli District Central
Cooperative Bank Limited,
Vannarpettai,
Tirunelveli-3.

3.The Special Officer,
Tirunelveli District Central
Cooperative Bank Limited,
Vannarpettai,
Tirunelveli-3.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent in surcharge proceedings 5/2006-07 dated 14.01.2008 and attachment of salary dated 10.05.2010 quash the same and consequently direct the respondents to refund the amount attached from the salary of the petitioner till date.

For petitioner : Mr. Sidhardhan

For Respondents : Mr. M.Muthu
Additional Government Pleader

**O R D E R**

The order passed under Section 87 of the Tamil Nadu Cooperative Societies Act imposing surcharge vide proceedings No. 5/2006-2007, dated 14.01.2008 is under challenge in this writ petition. Consequent attachment order, dated 10.05.2010 is also under challenge.

2. Heard Mr. Sidhardhan, learned Counsel appearing for the petitioner, Mr.M.Muthu, learned Additional Government Pleader appearing for the respondents.

3.An order of surcharge passed under Section 87 of the Tamil Nadu Cooperative Societies Act is an appealable order under Section 152 of the Tamil Nadu Cooperative Societies Act. The writ petitioner has rightly preferred an appeal in C.M.A. CS.No.20 of 2010 before the Cooperative Tribunal/ Principal District Judge, Tirunelveli.

4.However, it is stated by the learned Counsel that the present writ petition has been filed in view of the order of attachment passed. There cannot be any two parallel proceedings in respect of the order passed under section 87 of the Tamil Nadu Cooperative Societies Act.

5.The learned Counsel for the petitioner is not aware of the fact whether the CMA CS No.20 of 2010 is pending or not. However, the writ petition is filed during the pendency of the CMA CS No.20 of 2010 and therefore, the same cannot be entertained. The writ petition itself was filed on 30.06.2011 after a lapse of about three and a half years from the date of passing of the order in surcharge proceedings, dated 14.01.2008.

6.For all these reasons, the writ petition cannot be entertained and the writ petitioner has to pursue the remedy before



appropriate competent Court in C.M.A. CS.No.20 of 2010, which was already filed. Thus, no further adjudication is required in this writ petition.

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7. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P & A)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Judge,
Tirunelveli.
2. The Deputy Registrar of
Cooperative Societies,
Cooperative Department,
Perumalpuram Post,
Tirunelveli-7.
3. The General Manager,
Tirunelveli District Central
Cooperative Bank Limited,
Vannarpettai,
Tirunelveli-3.
4. The Special Officer,
Tirunelveli District Central
Cooperative Bank Limited,
Vannarpettai,
Tirunelveli-3.

+1cc to Special Government Pleader in SR.No.43982.

W.P. (MD) No.7210 of 2011
23.01.2018

pnn / am
SDS/JC/SAR 4/02.02.2018/3P/6C