



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.17382 & 17383 of 2010
and
M.P.Nos.1 & 1 of 2010

The Secretary.

(Now re-designated as the General Manager)

No.118, Krishnagiri Co-operative Urban Bank Ltd.,
Krishnagiri - 635 001.

... Petitioner in both W.Ps

Vs

1. M.Mohammed Hussain

... 1st respondent in
W.P.No.17382 of 2010

1. S.Shanmuganatham

... 1st respondent in
W.P.No.17383 of 2010

2.The Deputy Registrar of Co-operative Societies,
Krishnagiri.

... 2nd Respondent in both W.Ps

Prayer in W.P.No.17382 of 2010: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records in pursuant to the impugned order dated 26.04.2010 passed in CMA (CS) No.23/2009, on the file of the District Co-operative Cases Appellate Tribunal (Principal District Court), Krishnagiri and quash the same.

Prayer in W.P.No.17383 of 2010: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records in pursuant to the impugned order dated 26.04.2010 passed in CMA (CS) No.23/2009 & CMA (CS) No.33/2002 respectively, on the file of the District Co-operative Cases Appellate Tribunal (Principal District Court), Krishnagiri and quash the same.

For Petitioner : Ms.Swadhi Subramanian in both W.Ps

For Respondents : Mr.T.Sundaravadanam

for R1 in W.P.No.17382 of 2010

Mr.V.Stalin for R1 in W.P.No.17383 of 2010

Mr.Bala Ramesh for R2 in both W.Ps



COMMON ORDER

The petitioner has filed these Writ Petition, to issue a writ of Certiorari to call for the records in pursuant to the impugned order dated 26.04.2010 passed in CMA (CS) No.23/2009 & CMA (CS) No.33/2002 respectively, on the file of the District Co-operative Cases Appellate Tribunal (Principal District Court), Krishnagiri and quash the same.

2. The averments in the writ petition is that while the first respondent/Mohammed Ismail was Secretary in the Krishnagiri Co-operative urban Bank Ltd., based on the inspection conducted under Section 82 of the Tamil Nadu Co-operative Society Act and based on the report, the 2nd respondent/ Deputy Registrar initiated surcharge proceedings against the first respondent under Section 87 of the Act, for the loss caused to the petitioner cooperative bank.

3. The first respondent in W.P.No.17383 of 2010 (S.Shanmuganatham) was also working as a Special Officer in the petitioner cooperative bank and more over proceedings were initiated against former Secretary Mohamed Ismail also, since they have committed irregularity of investing a huge amount of Rs.8,71,000/- of the petitioner cooperative bank in IDBI shares. This was done without prior permission from the competent authority. Irregular investment made in the shares without prior permission from the department is not only a misconduct but also the society warranting an action under Section 87 of the Tamil Nadu Co-operative Societies Act to recover the financial loss. The Deputy Registrar of the Co-operative Societies, Krishnagiri after providing reasonable opportunities to the first respondent, passed final order on 15.05.2002 stating that the first respondent as well as the former secretary Mohamed Ismail are jointly liable for the entire loss of the petitioner cooperative bank amounting to Rs.11,84,125/-

4. The learned counsel for the petitioner submitted that Secretary and Special Officer is alleged to have invested a huge amount of Rs.8,71,000/- of the petitioner Co-operative bank in IDBI shares.

5. Per contra the learned counsel for the first respondent in both writ petitions, submitted that general permission was granted by the Government on 06.01.1996 vide Ref.UBD No.BR.12/16/20.00/95-96 and permitted the Special Officer of the concerned society to make investment. Based on the said resolution and the order dated 6 January 1996, the first respondent and the Special Officer have invested the huge amount.



6. This court perused the said order dated 6 January 1996 and of the view that the action of the first respondent in both writ petitions cannot be found fault with. This court finds no merit in these writ petitions to interfere with the order passed by the District Co-operative Cases Appellate Tribunal, Krishnagiri. Accordingly, these Writ Petitions are dismissed. No costs. Consequently connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (J)

//True Copy//

Sub Assistant Registrar

Dpq

To

1.The Principal District Judge,
District Co-Operative Cases Appellate Tribunal,
Krishnagiri.

2.The Deputy Registrar of Co-operative Societies,
Krishnagiri.

+1cc to Mr.T.Sundaravadanan, Advocate, S.R.No. 61451
+2cc to Mr.R.Prem Narayan, Advocate, S.R.No. 61056

W.P.Nos.17382 & 17383 of 2010
and
M.P.Nos.1 & 1 of 2010

GN(21/08/2019)