

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Civil Revision Petition No.3427 of 2008
and M.P.No.1 of 2008

1. G. Ranganathan (died),
S/o. Ganapathy Gounder
2. Tmt. Santhamani,
Wo. G. Ranganathan,
(2nd petitioner as legal heir
of the deceased 1st petitioner
vide order of this Court dated 24.11.2006 in CRP 3427
of 2008 in MP.1 of 2008(TMJ) ...Petitioners

Vs

1. The Deputy Registrar of
Co-operative of Society/Arbitrator,
Co-operative Department,
Pollachi.
2. The Special Officer,
No.4511, V. Kallipalayam Primary
Agricultural Co-operative Bank,
V.Kallipalayam Post,
Palladam (via),
Tiruppur Taluk,
Coimbatore DIstrict ...Respondents

3. N.S.Palanisamy

4. G. Radhakrishnan

5. V. Govindaraj

6. V. Palanisamy

7. Kalavathi

8. Rukkumani

9. R. Aran

10. P. Chitra

12. Mahalakshmi

13. K. Bagyavathy

...Respondents

(Respondents 3 to 13 are given up)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the judgment passed in CMA.No.119 of 2004 on the file of the Principal District Court, Coimbatore dated 26.03.2008 in S.C.No.6 of 2002 on the file of the Deputy Registrar of Co-operative of Society/Arbitrator, Co-operative Department, Pollachi, dated 28.04.2003 and set aside the same.

For Petitioner : Sureshbabu,
for Mr. S. Gunalan

For Respondents : Mr.L.P.Shanmuga Sundaram,
Spl. G.P. (Co-operative),
for R1 and R2

R3 to R13 : Given Up

ORDER

This Civil Revision Petition has been filed to set aside the judgment passed in CMA No.119 of 2004 on the file of the Principal District Court, Coimbatore, dated 26.03.2008.

2. The first respondent is the Deputy Registrar of Co-operative Society and the second respondent is the Special Officer of Agricultural Co-operative Bank. The first respondent initiated proceedings against the petitioners and other persons and passed an award in S.C.No.6 of 2002 on the file of the first respondent. Challenging the said order passed by the first respondent, the petitioners have filed an appeal before the Principal District Court, Coimbatore in CMA.No.119 of 2004. The learned District Judge, after hearing the argument, found that proper opportunity has not been given to the petitioners before passing order by the first respondent herein and hence, the learned Judge ordered to remitted the matter back to the first respondent to pass order within a period of two months after giving opportunity to both the parties to produce their documents and evidence and hearing both sides. Now, challenging the same, the present revision has been filed.

3. During the pendency of this Revision , the first petitioner died and the same was reported before this Court and the same was recorded. Since the second petitioner is the legal heir of the first petitioner, the second petitioner is prosecuting the revision.

5. The learned counsel for the petitioner would submit that the first petitioner is secretary and the second petitioner is the writer and they have not committed any offence. The enquiry report has also not been furnished to the petitioners and there is no document to show that the petitioners had misappropriated the funds of the society and therefore, the order passed by the first respondent is illegal. The First Appellate Court has also failed to consider the entire materials and set aside the order passed by the first respondent. Challenging the same, the present revision has been filed.

6. The learned Special Government Pleader appearing for the respondents 1 and 2 would submit that the first respondent has given full opportunity to the petitioners and passed orders on merits. The only stand taken by the petitioners before the District Judge is that the report of the section 81 enquiry has not been furnished to the petitioners. Therefore, the learned District Judge also set aside the order and directed the first respondent herein to give opportunity to both the parties to adduce oral and documentary evidence and post the matter afresh and hence, there is no merit in the revision.

7. Admittedly, the first respondent initiated proceedings against the petitioners and others in S.C.No.6 of 2020 on the file of the first respondent and the first petitioner is the Secretary and the second petitioner is the writer in the Co-operative Society and during their service, they misappropriated the funds of the society along with others and enquiry under Section 81 has been conducted and passed award against them. Challenging the said order, the petitioners had filed an appeal before the Principal District Court, Coimbatore in CMA No.119 of 2004 and the learned judge, after hearing both sides and perusing the records, has found that opportunity has not been given to the petitioner and therefore, the learned Judge has set aside the order passed by the first respondent and remitted the matter back to the first respondent and directed the first respondent herein to pass orders within a period of two months after giving opportunity to adduce oral and documentary evidence and also to hear both the parties. After careful reading of the entire records, this Court does not find any merit in the revision. The First Appellate court, after appreciating the entire facts, held that opportunity was not given to the petitioners and set aside the order passed by the first respondent and remitted the matter back to the first respondent to hear the matter afresh after giving opportunity to the parties. Hence, there is no perversity in the order passed by the Tribunal/ Principal District Court, Coimbatore and the revision is liable to be dismissed.

8. Accordingly, the Civil Revision Petition is dismissed and the first respondent is directed to comply with the order of the Tribunal/ Principal District Court, Coimbatore within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Principal District Judge,
The Principal District Court, Coimbatore.
2. The Deputy Registrar of Complainant-operative of society
Arbitrator, Co-operative Dept, Pollachi.
3. The Section Officer, V.R. Section, High Court, Madras

+1cc to Mr.S.Gunalam, Advocate, S.R.No.24816
+1cc to the Government Pleader, S.R.No.24869

C.R.P. No.3427 of 2008

BR(CO)
KKV/28/07/2020

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