

IN THE HIGH COURT OF JUDICATURE AT MADRAS**RESERVED ON : 19.02.2020****PRONOUNCED ON : 03.06.2020****CORAM :****THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN****C.R.P. (NPD) Nos.4380 and 4381 of 2012****and****M.P.Nos.1 and 1 of 2012****C.R.P. (NPD) No.4380 of 2012**

T.Sridhar

... Petitioner

-VS-

1.The Special Officer,
E.2608 Athipattu Primary Agricultural Coop. Credit Society Ltd.,
Kattumannarkudi Taluk,
Cuddalore District.

2.The Deputy Registrar of Coop.Societies,
Kanakasabhai Nagar, II Main Road,
Chidambaram.

... Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, against the Fair and Decretal order dated 01.10.2012 passed in Coop. C.M.A.No.9 of 2012 on the file of Principal District Judge, Cuddalore District, Cuddalore, whereby partly dismissing the proceedings of the second respondent in Na.Ka.No.2518 of 2010 Sa.Pa dated

04.11.2011.

C.R.P. (NPD) No.4381 of 2012

K.Veerasundaram

... Petitioner

-VS-

1.The Special Officer,
E.2608 Athipattu Primary Agricultural Coop.Credit Society Ltd.,
Kattumannarkudi Taluk,
Cuddalore District.

2.The Deputy Registrar of Coop.Societies,
Kanakasabhai Nagar,
II Main Road,
Chidambaram.

... Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, against the Fair and Decretal order dated 28.09.2012 passed in Coop. C.M.A.No.11 of 2012 on the file of Principal District Judge, Cuddalore District, Cuddalore, whereby partly dismissing the proceedings of the second respondent in Na.Ka.No.2518 of 2010 Sa.Pa dated 04.11.2011.

For Petitioners : Mr.C.Prakasam
(In both petitions)

For Respondents : Mr.L.P.Shanmuga Sundaram
(In both petitions) Special Government Pleader

COMMON ORDER

These Civil Revision Petitions have been filed against the order passed in Coop.C.M.A.Nos.9 and 11 of 2012 on the file of the learned Principal District Judge, Cuddalore, Cuddalore District.

C.R.P. (NPD) No.4380 of 2012

2.The learned counsel for the petitioner submitted that the matter has arisen out of the surcharge proceedings passed by the second respondent under the Tamil Nadu Co-operative Societies Act. The short point arises for consideration in respect of the finding of misappropriation of Rs.3,430/-, is the copy of enquiry as contemplated under Section 81 of the said Act, has not been complied with and the learned Principal District Judge, Cuddalore/Appellate Authority has not considered the same.

3.The learned Special Government Pleader for the respondents submitted that the petitioner herein has been subjected to surcharge proceedings under Section 81 of the Tamil Nadu Co-operative Societies Act,

facing five charges. After enquiry, he was exonerated from four charges. In respect of Charge No.4, to the tune of Rs.3,430/- he was found guilty. Accordingly, proceedings have been initiated. The said order has been confirmed in Coop.C.M.A.No.9 of 2012, which is under challenge in this civil revision petition.

4. After perusing the order passed by the learned Principal District Judge, Cuddalore and after perusing the records submitted by the learned Special Government Pleader and obtained from the Lower Court records, it is seen that in Athipattu Primary Agricultural Coop. Credit Society, the petitioner society herein, some serious irregularities were committed by the petitioner along with five other employees of the society in issuance of National Crop Insurance amount to farmers during 2008-2009. When the irregularities came to the notice of the second respondent, he ordered for Section 81 enquiry and got the report. The Section 81 Enquiry Officer has submitted his report recommending to take surcharge action under Section 87 of Tamil Nadu Co-operative Societies Act to recoup the loss caused to the Society by the petitioner and other five employees and other farmers for

the amounts detailed below:-

Sl. No	Item No.	Details	Loss of Amount (Rs.)
1	1	Failed to remit Rs.27601.50 insurance premium collected from 44 farmers on due date and thereby unable to claim insurance	17,98,538
2	2	By preparing bogus list when insurance amount was not actually received amount credited into savings bank account of 32 farmers	6,17,480
3	3-A	Excess credit in savings account of 4 farmers than the actual insurance amount received	12,534
4	3-B	Excess credit in loan account of 17 farmers than the actual insurance amount received	46,518
5	4	a) Collection of Insurance premium Rs.2147 from 8 non borrowers and not brought to books and not issued receipt for the amount and utilized for self and Rs.2147 premium paid from the funds of the society b) While issue of loan amount to 8 members failed to collect insurance premium Rs.1283 and premium paid from the funds as per the society.	3,430
6	5	When there is no land in the name of petitioner by forging documents got agricultural loan Rs.29,700/- in the name of J.Thilagam, Member No.919 and availed crop insurance Rs.19,745 and caused loss to Government money	19,745
		Total	24,98,065

5.Under Section 81 enquiry was conducted by the enquiry officer by giving reasonable opportunity to the petitioner and the petitioner's deposition was also obtained by the Section 81 Enquiry Officer.

6.The second respondent after perusal of Section 81 enquiry report and relevant records conducted personal hearing of the petitioner and the petitioner appeared before the second respondent and gave his deposition on 05.08.2011. The second respondent passed orders under Section 87, after adopting all formalities.

7.The fourth charge is that the petitioner collected insurance premium of Rs.2,147/- from 8 non borrowers and not brought to books and not issued receipt for the amount and utilized for his own and paid Rs.2,147/- premium amount from the funds of the respondent society and while issuance of loan to 8 members, failed to collect insurance premium of Rs.1,283/- and that amount was paid from the funds of the respondent

society and thereby caused a loss of (Rs.2147+1283) Rs.3,430/- to the respondent society.

8.Second respondent after perusal of records and deposition of the petitioner has passed surcharge order in his proceedings in Na.Ka.No.2518/2010, sa.pa, dated 04.11.2011. The petitioner approached the District and Sessions Court/Coop Tribunal and filed appeal under Section 152 of Tamil Nadu Co-operative Societies Act in Coop.C.M.A.No.9 of 2012. The District and Sessions Court disposed the above CMA and out of six charges, four charges were set aside and one charge, 3(b) the surcharge order, is modified and item No.4 in the surcharge order is confirmed stating that there is no explanation from the petitioner during the surcharge proceedings and there is no ground in the memorandum of appeal filed by the appellant.

9.The Section 81 Enquiry Officer has clearly stated in his enquiry report that the petitioner has collected premium amount of Rs.2,147/- without issuing receipt for the amount and not brought the amount to books of the respondent society and utilized the amount for his own and remitted

Rs.2,147/- as insurance premium into the Central Cooperative Bank from the funds of the petitioner's society. Further, while issuance of loan, the petitioner failed to collect insurance premium of Rs.1,283/- and paid that amount into Central Cooperative Bank from the funds of the respondent Society and thereby caused a loss of Rs.3,430/- to the respondent society. During surcharge proceedings, the petitioner appeared before the second respondent and gave his deposition. In his written statement, as regards item Nos.3,4 and 5, he has not given any explanation.

10. In the order, dated 01.12.2012, in Coop.C.M.A. No.9 of 2012, the learned Principal District Judge, Cuddalore District, Cuddalore, the subject matter of these civil revision petition is in respect of charge No.4 on perusal of the records it is seen that the appellant herein along with the other employees have misappropriated a sum of Rs.3,430/-. This amount represents a component of Rs.2,147/- which has been collected from non-members and a sum of Rs.1,283/- which has been collected from members additionally during the disbursal. In this context, there is no reply/explanation from this appellant during the surcharge proceedings and

there is no ground in the memorandum of appeal filed by this appellant. Hence, the findings in this item in the surcharge order as far as this revision petitioner, is confirmed.

11.In view of the above factual position as reflected in the records, as rightly pointed out by the Principal District Judge, Cuddalore, Cuddalore District, in the absence of any reply or explanation being offered by the petitioner herein, I find no reason to interfere with the order passed by the learned Principal District Judge, Cuddalore. Accordingly, this Civil Revision Petition is dismissed as devoid of merits.

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12.On similar said of facts and on the same proceedings, the petitioner herein is also placed and for the very same reasons as assigned above, he has not given reply or explanation during the surcharge proceedings. Hence, the finding rendered by the Cooperative Tribunal does not warrant any interference, since there is nothing on record to show that the petitioner has not been given sufficient opportunity to put forth his case

under Section 81 of the Tamil Nadu Co-operative Societies Act and the surcharge order passed appears to be passed after observing all the procedure thereto.

13.In view of the above observations, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

03.06.2020

Index: Yes / No
Internet: Yes / No
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To:-

- 1.The Special Officer,
E.2608 Athipattu Primary Agricultural Coop.Credit Society Ltd.,
Kattumannarkudi Taluk,
Cuddalore District.
- 2.The Deputy Registrar of Coop.Societies,
Kanakasabhai Nagar, II Main Road,
Chidambaram.

2.The Section Officer,
Vernacular Records,
Madras High Court,
Madras.

RMT. TEEKAA RAMAN, J.

cp



**Pre-Delivery Order made in
C.R.P. (NPD) Nos.4380 and 4381 of 2012**

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