

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2020

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) Nos.1109, 1110, 1148, 1150, 1111,
1154, 1147, 1151 and 1152 of 2020
and
C.M.P.Nos.6027, 6028, 6030, 6193, 6189, 6197,
6196, 6201 and 6223 of 2020

C.R.P.(PD) No.1109 of 2020

Y.P.Samuvel

.... Petitioner

Vs.

1.The Deputy Registrar of Co-Operative Societies (Credit),
Kuralagam,
Chennai – 600 108.

2.The President,
The Transport Corporation Employees Co-Operative
Thrift and Credit Societies No.X-367,
Teynampet, Chennai – 600 018. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Code of Civil Procedure against the judgment and decree of the Chief Judge, Court of Small Causes at Chennai dated 22.03.2019 made in C.M.A.No.18 of 2018 confirming the surcharge proceedings in Na.Ka.No.2409/2016 Sa.Pa-1 dated 02.08.2017 passed by the Deputy Registrar of Co-Operative Societies (Credit) Chennai and set aside the same.

For Petitioners : Mr.S.Senthilnathan
in all C.R.Ps

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader
in all C.R.Ps

COMMON ORDER

The petitioners have challenged the order of the Tribunal, confirming the recovery of order passed in the surcharge proceedings by the Deputy Registrar of Co-Operative Societies (Credit) Chennai. The very same order in respect of the employees of the second respondent / Society came to be decided by the Hon'ble Mr.Justice R.Suresh Kumar in C.R.P.(NPD)

Nos.3009 of 2019 etc., batch, on 25.11.2019. The similarly placed employees, during the pendency of the said revision petitions have filed affidavits of undertaking and the same was extracted in the above order, which reads as under:-

“18. Before this Court also, each of the employees who filed the revisions in this batch have come forward to file separate undertaking affidavits and in order to appreciate the same, the relevant portion of the undertaking affidavits filed by the employees i.e. the affidavit filed by the revision petitioner / employee in C.R.P.No. 3023 of 2019 is extracted hereunder:

Therefore this Honble Court may be pleased to receive the undertaking affidavit that I have no objection for recovery of excess payment made in my favour by the respondent if recovered from my salary in easy monthly installments by setting aside the Surcharge Proceedings dated 02.08.2017 and without prejudice to the outcome of the conciliation proceedings initiated by Assistant Commissioner of Labour, Chennai 600 006 dated 09.04.2019 made in letter No. C3/039323/2018.”

2. The learned counsel appearing for the petitioners would submit that now the present revision petitioners are also willing to file affidavits of undertaking as done by the other employees in the above batch of cases, which was decided by this Court on 25.11.2019. He would further submit that due to COVID-19 pandemic situation, he is not in a position to collect the affidavits of undertaking from the petitioners.

3. I have considered the submissions.

4. When the petitioners are willing to file affidavits of undertaking, it can be filed before the concerned Authority himself instead of filing it before this Court. Accordingly, in addition to the direction given by this Court on 25.11.2019 in C.R.P (NPD) Nos.3009 of 2019 etc., batch, the condition for filing Affidavits of Undertaking is also imposed on the petitioners before the concerned Authority. In this regard, paragraph nos.23 and 24 of the above order are extracted hereunder:-

“23. Accordingly, taking into account, the totality of the circumstances and also after having considered the factual matrix and the offer having been made by the revision petitioners / employees who made a similar offer to pay back the entire excess amount before the Tribunal itself, this Court is of the view that a quietus can be given to the issue, of course in the interest of both sides, hence it is inclined to dispose of all the Civil Revision Petitions with the following directions:

(i) That the revision petitioners / employees shall pay back the excess amount paid to them, i.e., the amount quantified by the second respondent / Society as has been mentioned at pg. Nos. 37 to 41 of the Surcharge Proceedings dated 02.08.2017 by way of installments.

(ii) The installments shall be calculated, taking into account, the remaining service period of each of the employees / revision petitioners before this Court by the respondents. Accordingly depending upon the remaining service period, the due payable by each of the employees would differ from employee to employee.

(iii) The said exercise shall be undertaken by the respondents within a period of thirty days from the date of receipt of a copy of this order and preferably they shall start recovering the due payable by each of the revision petitioners / employees from January 2020 salary till the entire payment is made.;

24. It is made clear that, the employees are liable to pay only the principle i.e., excess payment quantified in the Surcharge Proceedings and not the interest of 14% as allowed in the Surcharge Proceedings."

5. Accordingly, all these Civil Revision Petitions are disposed of in terms of the order dated 25.11.2019 passed by The Hon'ble Mr.Justice R.Suresh Kumar, in C.R.P (NPD) Nos.3009 of 2019 etc., batch. In addition to this, the petitioners are directed to file Affidavits of Undertaking before the first respondent. With the above conditions, the surcharge proceedings in Na.Ka.Nos.2409/2016 Sa.Pa-1, 2409/2016 Sa.Pa-1, 2409/2016 Sa.Pa-1, 2007-2016 Sa.Pa, 2409/2016 Sa.Pa-1, 2409/2016 Sa.Pa-1, 2007-2016 Sa.Pa, 2409/2016 Sa.Pa-1 and 2007-2016 Sa.Pa. respectively, dated 02.08.2017

passed by the Deputy Registrar of Co-Operative Societies (Credit) Chennai as confirmed by the Tribunal in the impugned order in CMA Nos.18, 1, 12, 39, 29, 20, 19, 6 and 46 of 2018 respectively is hereby modified to the extent indicated above. No costs. Consequently, connected civil miscellaneous petitions are closed.

In all these matters, which were decided earlier and now, the learned Special Government Pleader is entitled to separate fee for each case.

14.09.2020

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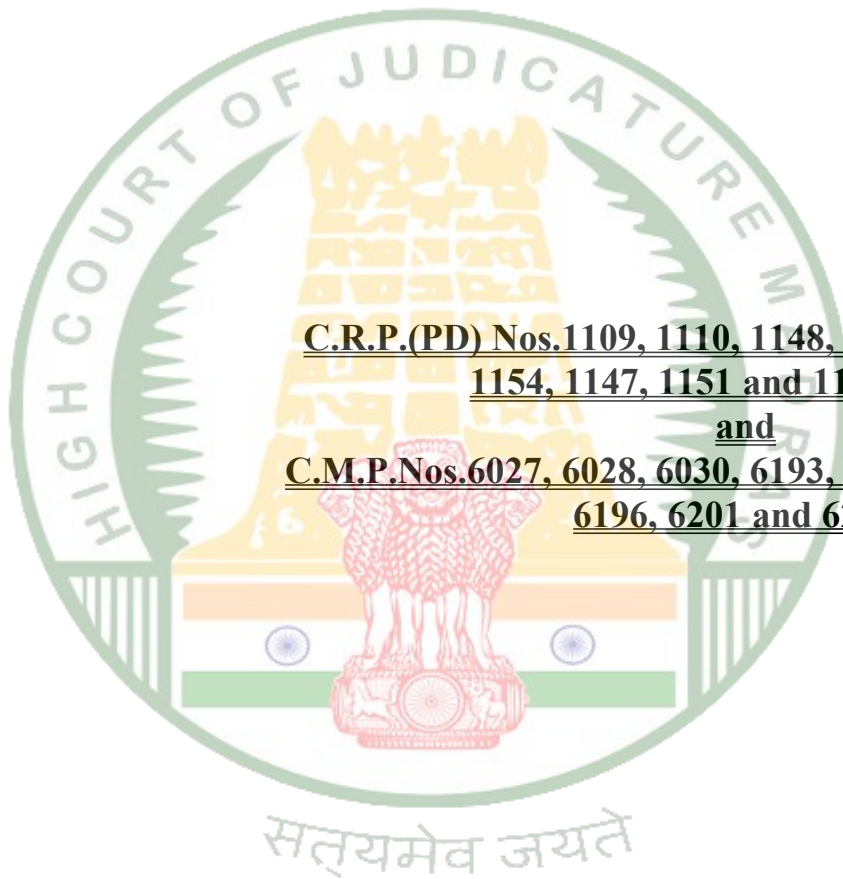
To

- 1.The Chief Judge,
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M.GOVINDARAJ, J.

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