

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 14.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.13414 OF 2014

and

MP.No.1 of 2014

K.Murugaiyan

...Petitioner

- Vs -

1. Deputy Registrar of Cooperative Societies,
Thirukovilur,
Villupuram District.
 2. Sales Officer,
Office of the Deputy Registrar of Cooperative Societies,
Thirukovilur, Villupuram District.
 3. Management,
Thirunavalur Farmers Service Cooperative Society Limited,
Thirukovilur, Ulundurpet Taluk,
Villupuram District.
- ...Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus, directing the 1st respondent to consider the petition dated 9.4.2014 submitted by the petitioner and direct to reopen the enquiry in respect of surcharge proceedings order dated 15.06.2012 and by raising the attachment order 19.07.2010 issued by the 3rd respondent.

For Petitioner : M/S.Balan Haridas

For Respondents: Mr.L.P.Shanmugasundaram, Spl. GP

ORDER

The petitioner in the above writ petition prays, to direct the 1st respondent to consider the petition dated 9.4.2014 submitted by the petitioner and direct to reopen the enquiry in respect of surcharge proceedings order dated 15.06.2012 and by raising the attachment order 19.07.2010 issued by the 3rd respondent.

2. According to the petitioner, he joined the services of the 2nd respondent as a Saleman and thereafter he was given the in-charge position in the post of cashier. While serving in that post, certain charges were levelled against him, thereby surcharge proceedings were initiated against him and the same was concluded in the year 2012. Aggrieved against the said surcharge proceedings initiated by the 1st respondent under Section 87 of the Tamil Nadu Cooperative Societies Act by passing of order dated 15.06.2012, which has held him responsible for the missing cash and missing value of jewellery, which now stands disproved by the police nabbing the real culprits who had committed the theft and, therefore, the question of surcharge proceedings and recovery the money does not arise. The petitioner, immediately after coming to know about the theft and the apprehending of the real culprits, has sent representation dated 9.4.2014 to reopen the surcharge proceedings for which no order was passed. Hence the present petition.

2. Learned counsel appearing for the petitioner submitted that it would suffice this Court may issue a direction to consider the petitioner's representation dated 9.4.2014 and to direct the respondents to reopen the enquiry in respect of the surcharge proceedings within a reasonable time fixed by this court.

3. On the above contention, this Court heard the learned Special Government Pleader appearing for the respondents, who has filed a counter affidavit on behalf of respondent, denying the averments made by the petitioner and contended that the enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 was ordered by the 1st respondent dated 23/05/2010 with regard to the misappropriation of funds of the society and theft of the jewels. By the present petition, the petitioner is indirectly challenging the order passed in the surcharge proceedings dated 15.06.2012. In pursuant to the 81 enquiry, surcharge proceedings were initiated after giving ample opportunity to the petitioner and by following the principles of natural justice, order was passed in the surcharge proceedings. If at all the petitioner has any grievance against the surcharge proceedings the petitioner may prefer the statutory appeal under section 152 of Tamil Nadu Cooperative Societies Act, 1983 before the Cooperative Tribunal. Without doing so the petitioner has straight away preferred the present writ petition, which is not maintainable. Accordingly he prays for dismissal of the petition.

4. This Court considered the rival contentions advanced by either side and perused the materials available on record.

5. The facts in the present case are not in dispute. As against the order passed in the surcharge proceedings, a remedy of statutory appeal is available to the petitioner before the Tribunal. However, without exhausting the said remedy, the petitioner has filed the present petition before this Court, which is not maintainable. Therefore, the relief sought by the petitioner cannot be granted.

6. For the reasons aforesaid, this writ petition is dismissed as not maintainable. However, liberty is given to the petitioner to work out his remedies in the manner known to law. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. Deputy Registrar of Cooperative Societies,
Thirukovilur,
Villupuram District.
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3. Management,
Thirunavalur Farmers Service Cooperative Society Limited,
Thirukovilur,
Ulundurpet Taluk,
Villupuram District.

+1cc to Mr.Balanharidas, Advocate, S.R.No. 40899

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