



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2020

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THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (PD) (MD)Nos.652 and 653 of 2020

and

C.M.P. (MD)Nos.4258 and 4259 of 2020

C.R.P. (MD)No.652 of 2020:-

The Managing Director,
TAICO Bank,
Chennai.

: Petitioner/3rd Party

.. Vs ..

1.M.Rajendran ... Respondent No.1/Appellant

2.The Assistant Director of Industries and Commerce,
(Industrial Co-op/Surcharge Officer),
District Industries Centre, Dindigul.

3.The Industries Commissioner and Director of
Industries and Commerce,
Chepauk, Madras-5.
Present Address
The Industries Commissioner and Director of
Industries and Commissioner,
CTAL building, Guindy, Madras.

4.TAICO Bank,
through its Special Officer,
No.1, Gandhi Museum Road,
Egmore, Chennai.
Present Address
TAICO Bank,
through its Special Officer,
No.36, south Central Bank Road,
Mandaveli pakkam, R.A.Puram. Chennai 28.

: Respondents 2 to 4/Respondents 1 to 3

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order, dated 28.04.2018 passed in C.M.A.(CS)No.21 of 2011 on the file of the Principal District Court, Madurai.



C.R.P. (MD)No.653 of 2020:-

The Managing Director,
Taico Bank,
Chennai.

: Petitioner/3rd Party

.. Vs ..

1.T.Ragunath ... Respondent No.1/Appellant

2.The Assistant Director of Industries and Commerce,
(Industrial Co-op/Surcharge Officer),
District Industries Centre, Dindigul.

3.The Industries Commissioner and Director of
Industries and Commerce,
Chepauk, Madras-5.
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Present Address
TAICO Bank,
through its Special Officer,
No.36, south Central Bank Road,
Mandaveli pakkam, R.A.Puram. Chennai 28.

: Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of
Constitution of India, to set aside the order, dated 28.04.2018
passed in C.M.A.(CS)No.22 of 2011 on the file of the Principal
District Court, Madurai.

For Petitioner

:Mr.S.Rajesekar

COMMON ORDER

These Civil Revision Petitions are filed by the Managing
Director, TAICO Bank, as against the orders in C.M.A.(CS)Nos.21
and 22 of 2011.

2.The first respondent in C.R.P.(MD)No.652 of 2020 and in
C.R.P.(MD)No.653 of 2020 were working as Assistant and Inspector



respectively in TAICO Bank, Madurai branch between 2003 and 2006. As against the Manager and the first respondent in these revision petitions, surcharge proceedings were initiated holding that they have caused loss to the Bank by improperly advancing loan to some beneficiaries. A surcharge order was passed making them responsible for the loss. By order, dated 14.01.2011, the Surcharge Officer held that the first respondent in these revision petitions along with the Manager of TAICO Bank are responsible for the loss caused to the Bank to the tune of more than Rs.10 lakhs.

3.From the reading of surcharge proceedings, it is seen that the finding of the Surcharge Officer was to the effect that the employees of the Bank have not followed the procedure, while processing the loan application and sanctioning the loan and that they have not shown due diligence in the process of recovery. The conclusion ultimately was that three of them have caused loss to the Bank to the tune of more than Rs.10 lakhs. Challenging the surcharge order, the first respondent in both revision petitions have preferred appeal in C.M.A(CS)Nos.21 and 22 of 2011 before the Principal District Court, Madurai.

4.The learned Principal District Judge, Madurai, after elaborately considering the pleadings and evidence adduced, came to the conclusion that no loss was caused to the Bank. Further, the lower Court found that there is no specific allegation against any of the employees including the first respondent in these revision petitions regarding their active role. In other words, the charges against the first respondent in these revision petitions are not specific by referring to any misconduct or wilful negligence. Further, it is found that the Surcharge Officer has not rendered any finding that the negligence on the part of the Officers are deliberate with the knowledge that the Bank will be put to loss on account of their gross negligence. Challenging the order in C.M.A(CS)Nos.21 and 22 of 2011, the above revision petitions are filed.

5.The learned Counsel for the revision petitioner submitted that the decision of the lower Court is contrary to law and without considering the admitted facts. The learned Counsel further submitted that the first respondent in both the revision petitions have committed serious irregularity, while getting application forms from the beneficiaries. It was pointed out by the learned Counsel for the revision petitioner that the signatures from the Educational authorities were not obtained in the loan application. It is further contended that the signatures have been obtained from the Principal of the Educational institution, in which the beneficiaries were working and that the same is against the practice and instructions given to the employees of the Bank.



6. Though the learned Counsel for the revision petitioner contended that the loans were granted to School employees violative of Rules, he has conceded that he has no material to point out or conclude that the loans were sanctioned to the beneficiaries, who are not otherwise entitled to. It is worthwhile to mention that the teachers are getting substantial salary and that their take home salary gives an indication that they are eligible to get the loan from the Bank. As a matter of fact, this Court can take judicial note of the fact regarding the borrowing capacity of teachers. In this case, the maximum loan amount is less than a lakh and therefore, the sanction of loan in favour of teachers, who are employed in Government or private schools, cannot be found fault with.

7. The question whether there is any procedural violation or not can be answered only by specific guidelines or circulars or Rules. In the present case, this Court does not find any material, that was placed before the Surcharge Officer or before the lower Court, to show that a particular rule or guideline or instruction is transgressed or violated by the first respondent in these revision petitions. In this case, the Surcharge Officer has passed an order without considering any document, as if the entire loan amount advanced to the beneficiaries, as per the surcharge order, cannot be recovered at all. However, it is admitted before this Court that arbitration proceedings were initiated for recovery of money from the beneficiaries and an arbitration award was also obtained as against the borrowers. Since the award of the Arbitrator was set aside and the matter was remitted, it is stated that the matter is still pending before the Arbitrator. In such circumstances, the contention of the revision petitioner that huge loss was caused to the Bank cannot be accepted.

8. It is well settled that when Surcharge Proceedings were initiated against the incumbents for causing loss to the Bank, mere negligence is not sufficient to attract surcharge proceedings. It has been repeatedly held by this Court that surcharge proceedings can be initiated only if there is wilful negligence. It should be established that the negligence was wilful or deliberate knowing that the employees knew that their conduct was wilful. In this case, absolutely there is nothing to indicate that there was wilful negligence, so as to make the first respondent in these petitions liable. The surcharge Officer has passed the order mechanically without specifying the charges that were framed or alleged or proved against the first respondent in these revision petitions.

9. This Court does not find any merit in these revision petitions. Hence, these Civil Revision Petitions are dismissed.



and the order passed by the learned Principal District Judge, Madurai, in C.M.A.(CS)Nos.21 and 22 of 2011, dated 28.04.2018 are confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Assistant Director of Industries and Commerce,
(Industrial Co-op/Surcharge Officer),
District Industries Centre, Dindigul.

2.The Industries Commissioner and Director of
Industries and Commissioner,
CTAL building, Guindy, Madras.

COPY TO

The Principal District Judge, Madurai.

+2 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-16590[F] dated 11/09/2020)

C.R.P.(PD)(MD)Nos.652 and 653 of 2020

10.09.2020

SRK(CO)

TR(24.09.2020) 5P 6C