



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8788 of 2019

and

W.M.P.(MD)No.6831 of 2019

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M.Balakrishnan

... Petitioner

Vs.

1.The Joint Registrar Cooperative Societies,
Ramanathapuram District,
Ramanathapuram.

2.The Deputy Registrar Cooperative Societies,
Paramakudi Circle, Paramakudi,
Ramanathapuram District.

3.P.Sasi @ Chandran,
Secretary (under suspension),
The Q 1269, Keeranur Primary Agricultural
Cooperative Credit Society,
Arunagiri Kottagai, Aapanur,
Muthukulathur Taluk,
Ramanathapuram District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the 2nd respondent the impugned surcharge enquiry/show cause notice vide Surcharge No.2/2018-19 (Na.Ka.636/2016 Sa.Pa.) dated 14.03.2019 under Section 87 of the Tamil Nadu Cooperative Societies Act based on the enquiry report under Section 81 of Tamil Nadu Cooperative Societies Act in pertaining to irregularities in the Q 1269, Keeranur Primary Agricultural Cooperative Credit Society and quash the same as illegal and as devoid of merits.

For Petitioner : Mr.Raja.Karthikeyan

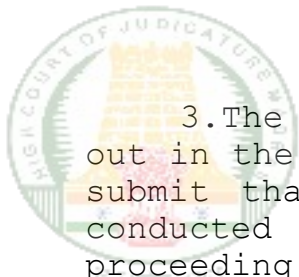
For Respondents : Mrs.S.Srimathy,

Special Govt. Pleader for R1 & R2

O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents 1 and 2.

2.The petitioner challenges the impugned surcharge proceeding initiated under Section 87 of the Tamil Nadu Cooperative Societies Act, 1983.



3.The petitioner's counsel reiterated all the contentions set out in the affidavit filed in support of the writ petition. He would submit that the enquiry under Section 81 of the Act was hastily conducted and concluded and on that basis the impugned surcharge proceeding has been initiated.

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4.I am afraid that the writ petition has been filed rather prematurely. The petitioner ought to understand that the scope the surcharge proceeding is quasi-judicial in nature and it is not bound by the conclusions set out in the enquiry report filed under Section 81 of the Act. The case of the against the petitioner for fastening liability under Section 87 of the Act has to be independently established. Merely because the petitioner suffered some adverse findings in the enquiry report under Section 81 of the Act, on that score his defence in the surcharge enquiry is not foreclosed. The petitioner's defences are left entirely open and the petitioner can very well establish his innocence in the surcharge proceeding. Leaving open all the contentions and defences of the petitioner, the writ petition is dismissed. The petitioner is given four more weeks from the date of receipt of a copy of this order to offer

his explanation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Joint Registrar Cooperative Societies,
Ramanathapuram District,
Ramanathapuram.
- 2.The Deputy Registrar Cooperative Societies,
Paramakudi Circle, Paramakudi,
Ramanathapuram District.

+1 CC to M/s.Special Government Pleader(SR-15544[F] dated
01/09/2020)

W.P.(MD)No.8788 of 2019
31.08.2020

KB(10.09.2020) 2P 4C

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