



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2020

CORAM

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

C.R.P. (MD)No.1497 of 2015

and

C.M.P. (MD)No.5308 and 5309 of 2019

S.K.Periyasamy : Petitioner/Appellant/12th Respondent

.. Vs ..

The Regional Deputy Registrar,
Tamil Nadu Cooperative Society,
(Housing AA Block),
Mannarpuram Housing Board,
Trichirappalli - 20.

: Respondent/Respondent/Penalty Officer

[Cause title is amended vide Court order dated 25.11.2016 made in C.M.P.(MD)No.10809 of 2016 in C.R.P.(MD)No.1497 of 2015]

PRAYER: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the fair order and decretal order of Cooperative Tribunal-cum-Principal District Judge, Pudukottai in C.M.A.No.15 of 2008, dated 05.06.2014, confirming the order of Deputy Registrar of Cooperative, Pudukottai in Na.Ka.No.70/2006, Sa.Pa. dated 27.12.2007.

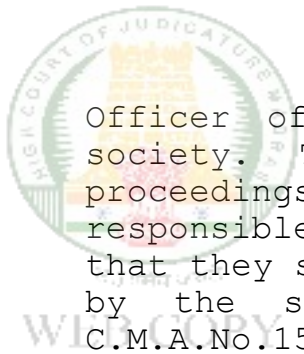
For Petitioner : Mr.N.Balakrishnan

For Respondent : Mr.J.Gunaseelan Muthiah

ORDER

This Civil Revision Petition is directed against the order passed by the Principal District Court-cum-Cooperative Tribunal, Pudukottai, in C.M.A.No.15 of 2008, dated 05.06.2014.

2.The petitioner in this Civil Revision Petition was the Secretary of the Cooperative Society known as "MM302 Pudukottai Cooperative Housing Society". While he was the Secretary of the society, some financial irregularities were noticed. Based on the audit report, serious financial irregularities were noticed in the society and proceedings were initiated under Section 87(1) of the Tamil Nadu Cooperative Societies Act (Surcharge proceedings) holding the President and Secretary of the society along with the Special



Officer of the society responsible for the loss caused to the society. The Regional Deputy Registrar of Cooperative Societies by proceedings dated 27.12.2007, found that the petitioner was responsible for the loss caused to the society along with others and that they should make good the loss jointly and severally. Aggrieved by the same, the petitioner herein preferred an appeal in C.M.A.No.15 of 2008 on the file of the Principal District Court-cum-Cooperative Tribunal, Pudukottai. The appeal was also dismissed holding that the petitioner along with President and the Special Officer of Cooperative Societies are liable to make good the loss to the society. Aggrieved over the same, the Secretary of the Cooperative Society has preferred the above Civil Revision Petition.

3.From the surcharge proceeding initiated against the petitioner and others, it is admitted that a huge loss to the tune of several lacks was caused to the society by giving loan to various persons without security. The involvement of the three people, namely, President, Secretary and Special Officer is seen from the admitted facts. The Secretary along with others have issued false certificates to make several borrowers eligible for housing loans. The certificates were issued to the effect that the borrowers are eligible for housing loan. The certificates are also issued for completion of several stage of the construction even though there was no construction activity and no building was constructed out of the loan. As a result, based on the false certificates or field reports issued by the officials without making any field inspection amounts were disbursed to several persons. What is missing is only the security which is normally the guarantee any financial institution would expect to get. The learned Counsel appearing for the petitioner submitted that the petitioner is not responsible for the field work relating to sanctioning or disbursement of loan. It is contended by the learned Counsel appearing for the petitioner that the petitioner was working as a Secretary under the Cooperative Sub Registrar and his work was confined to his office alone and not outside. Since the President and Special Officer are competent authorities to sanction the housing loan, the respondents cannot treat the petitioner as an authority entrusted with inspection of site and field work. The learned Counsel appearing for the petitioner further submitted that the Tribunal has not come to the conclusion that the petitioner has committed willful negligence while discharging his duties as a Secretary of the society. Having regard to the peculiar facts and circumstances of this case the conduct of the petitioner is very serious when we go by the admitted facts. The revision petitioner is a signatory to the certificates issued to the borrowers as to their eligibility at every stage of construction and about completion of construction so as to disburse the entire loan amount to the borrowers. A fraud has been perpetrated by depriving the society of any valuable security for substantial amount of money lent to the members. Hence, the case is not mere negligence or willful negligence but something more. By <https://hccs.courts.madras.gov.in/hccs/revise/>, the petitioner and others have caused loss to the



society willfully and knowing full well the consequences, namely, the loss to the society. Therefore, this Court finds no merits in this Civil Revision Petition. Accordingly, this Civil Revision Petition is dismissed. No costs.

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Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

- 1.The Cooperative Tribunal-cum-Principal District Judge,
Pudukottai.
- 2.The Deputy Registrar of Cooperative,
Pudukottai.
- 3.The Regional Deputy Registrar,
Tamil Nadu Cooperative Society,
(Housing AA Block),
Mannarpuram Housing Board,
Trichirappalli - 20.

+1 CC to M/s.GP (SR-14494[F] dated 20/08/2020)

C.R.P. (MD)No.1497 of 2015

19.08.2020

AP(01/09/2020) 3P 5C