

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(NPD) Nos.3435, 3436 & 3495 of 2015
and M.P.Nos.1 & 1 of 2015

CRP(NPD).No.3435 of 2015

The President
TYSPL, 191, Kadoor Primary
Agricultural Co-operative Credit Society,
Kadoor Village, Kunnam Taluk,
Perambalur District. Petitioner

Vs.

T.Pichaipillai (died)
1. Amulraj
2. Muruganatham
3. The Joint Registrar,
Co-operative Department,
Perambalur.
4. The Deputy Registrar,
Co-operative Department,
Ariyalur.
5. The Special Officer,
Co-operative Department,
Kadoor. Respondents

Prayer :- Civil Revision Petitions are filed under Article 227 of Constitution of India, to set aside the fair and decreetal orders dated 15.07.2015 passed in I.A.Sr.No.5210 of 2014 in O.S.No.8 of 2009, on the file of the Principal District Court, Perambalur.

For Petitioner : Mr.M.S.Palaniswamy
For Respondents
For R1 & R2 : Mr.R.Venkatesalu
For Ms.Usha Raman
For R3 & R4 : Mr.S.Jaganathan
Government Advocate (CS)
For R5 : Not ready in notice.

CRP(NPD).No.3436 of 2015

The President
TYSPL, 191, Kadoor Primary
Agricultural Co-operative Credit Society,
Kadoor Village, Kunnam Taluk,
Perambalur District. Petitioner

Vs.

T.Pichaipillai (died)
1. Amulraj
2. Muruganatham
3. The Joint Registrar,
Co-operative Department,
Perambalur.
4. The Deputy Registrar,
Co-operative Department,
Ariyalur.
5. The Special Officer,
Co-operative Department,
Kadoor.

... Respondents

Prayer :- Civil Revision Petitions are filed under Article 227 of Constitution of India, to set aside the fair and decreetal orders dated 15.07.2015 passed in I.A.Sr.No.5209 of 2014 in O.S.No.8 of 2009 respectively, on the file of the Principal District Court, Perambalur.

For Petitioner : Mr.M.S.Palaniswamy
For Respondents
For R1 & R2 : Mr.R.Venkatesalu
For Ms.Usha Raman
For R3 & R4 : Mr.S.Jaganathan
Government Advocate (CS)
For R5 : Not ready in notice.

CRP(NPD).No.3495 of 2015

1. The Joint Registrar of Co-operative Societies,
Perambalur.
2. The Deputy Registrar of Co-operative Societies,
Ariyalur.
3. The Special Officer,
Co-OP, Kadoor. ... Petitioners
Vs.
T.Pichaipillai (died)
1. Amulraj
2. Muruganatham ... Respondents

Prayer :- Civil Revision Petitions are filed under Section 115 of C.P.C., to set aside the order dated 19.08.2015 made in E.A.No.37 of 2015 in E.P.No.09 of 2015 in O.S.No.08 of 2009 on the file of the Principal District Court, Perambalur.

For Petitioners : Mr.S.Jaganathan
Government Advocate (CS)
For Respondents
For R1 & R2 : Mr.R.Venkatesalu
For Ms.Usha Raman

COMMON ORDER

CRP(NPD).Nos.3435 & 3456 of 2015

These Civil Revision Petitions have been filed as against the fair and decreetal orders dated 15.07.2015 passed by the learned Principal District Judge, Perambalur, in I.A.Sr.No.5210 & 5209 of 2014 in O.S.No.8 of 2009 respectively, thereby dismissing the petition to implead the petitioner as proposed defendant in the suit and the petition to set aside the exparte decree.

2. In both the Civil Revision Petitions, the petitioner is the proposed party in the suit filed by the deceased respondent herein as against the respondents 3 to 5 herein, for claiming termination benefits to the tune of Rs.11,68,965/- with interest at the rate of 12% per month. In the said suit the respondents 3 to 5 were set exparte and the suit was decreed as prayed for. Therefore, the petitioner being the President of the Co-operative

Society, filed petition to impleade himself as party to the suit and also set aside the exparte decree. The trial Court dismissed both the petitions, as against which these Civil Revision Petitions have been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner is elected as President of the Agricultural Co-operative Credit Society, situated at No.191, Kadoor Primary, Kadoor Village, Kunnam Taluk, Perambalur District. When the civil suit itself bared from claiming terminal benefits for the co-operative society employees, the deceased plaintiff filed suit claiming terminal benefits as against the respondents 3 to 5, who are the Joint Registrar, Deputy Registrar of the Co-operative Department and the third defendant is the Special Officer of Co-operative Department of Kadoor Village. The deceased respondent and the respondents 3 to 5 colluded each other and failed to appear before the trial Court. Therefore, they were set exparte and did not contest the suit on merits and they wantonly failed to appear before the trial Court.

3.1. In the mean while, the petitioner was elected as President of Agricultural Co-operative Credit Society and to safeguard the interest of the Society, he filed petitions to implead himself as party to the suit and also to set aside the exparte decree dated 18.07.2014. Unfortunately, due to the counsel mistake, the petition to implead was dismissed for defalut without even before numbering the same. In view of the said dismissal order, the petition to set aside exparte decree also dismissed. He further submitted that only to safe guard the interest of the Society, he may be given one more opportunity to contest the suit in accordance with law.

4. Per contra, the learned counsel appearing for the respondents would submit that the petitioner herein is none other than the Secretary who already suspended the deceased respondent herein. Thereafter, after due enquiry, the deceased respondent was reinstated into service. After his retirement, he was not paid any terminal benefits as such the deceased respondent no other opinion to file suit for recovery of money. Though the petitioner was elected as president of the Society, even before that all the defendants viz., the respondents 3 to 5 herein were set exparte and on the

strength of the decree, the legal representatives of the deceased plaintiff viz., the respondents 1 & 2 filed execution petition. In fact, in execution petition, the respondents 3 to 5 herein filed petition to set aside the exparte decree passed in the suit.

4.1. He further submitted that in fact, the fifth respondent herein filed his written statement in the suit and thereafter failed to contest the suit as such they were set exparte in the suit on 08.01.2010 and the exparte decree was passed on 08.01.2010 itself. Thereafter they filed petition to set aside exparte decree and the same was allowed on 25.06.2012. Again they were set exparte and the exparte decree was passed on 18.07.2014. Insofar as the petitioner is concerned after filing the petition to implead himself as party to the suit, he failed to pursue the application and it was dismissed as default on 15.07.2015. In respect of the petition to set aside the exparte decree is concerned, the said petition also dismissed in the SR stage. Therefore, he prayed for dismissal of both the petitions.

5. Heard Mr.M.S.Palaniswamy, learned counsel appearing for the petitioner, Mr.R.Venkatesalu, learned counsel appearing for the respondents 1 & 2 and Mr.S.Jaganathan, learned Government Advocate (CS) appearing for the respondents 3 & 4.

6. In both the Civil Revision Petitions, the petitioner is the proposed party in the suit filed by the deceased respondent for his terminal benefits as against the respondents 3 to 5 herein. On perusal of records revealed that fifth respondent filed written statement and thereafter they were set exparte. In pursuant to the exparte order, exparte decree was passed on 08.01.2010 and thereafter they filed petition to set aside the exparte order and the same was allowed on 25.06.2012. Again they were set exparte and the exparte decree was passed on 18.07.2014. In the meanwhile the petitioner herein was elected as president of Agricultural Co-operative Credit Society and he filed petition to implead himself as party to the suit and also filed petition to set aside exparte decree dated 18.07.2014.

7. The learned counsel appearing for the petitioner contended that the petitioner being the elected body, he has to safeguard the interest of the Society. All other respondents 3 to 5 were colluded with the deceased respondent and failed to contest the suit and failed to appear before the Court below and allowed the suit to pass *exparte* decree.

8. On perusal of records revealed that the petitioner after filing the petition to implead himself as party, failed to appear before the trial Court as such the said application was dismissed as default on 15.07.2015 itself. On 18.07.2014, all the defendants viz., the respondents 3 to 5 herein were set *exparte* and *exparte* decree was passed by the trial Court. Therefore, the petitioner without impleade himself as proposed party to the suit, he has no *locus standi* to challenge the *exparte* decree. Though the petitioner represented himself as elected president of the Agricultural Co-operative Credit Society, the person who represented the said Society was already set *exparte* viz., the fifth respondent herein and as such the petitioner cannot file any petition to set aside the *exparte* decree. Therefore, this Court finds no illegality or irregularity in the order passed by the Court below.

9. Accordingly, both the Civil Revision Petitions are dismissed. However, the petitioner is at liberty to file appropriate petition before the Execution Court in the manner known to law. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

C.R.P.NO.3495 of 2015

10. This Civil Revision Petition has been filed as against the order dated 19.08.2015 passed by the learned Principal District Judge, Perambalur in E.A.No.37 of 2015 in E.P.No.09 of 2015 in O.S.No.08 of 2009, thereby dismissing the petition to set aside the exparte order passed in suit.

11. As discussed above, the petitioners are the defendants in the suit filed by the deceased respondent for terminal benefits. They were set exparte by the judgment and decree dated 18.07.2014. On the strength of the exparte decree, the legal heirs of the deceased respondent viz., the respondents 1 & 2 filed execution petition in E.P.No.09 of 2015 before the Execution Court. While pending the execution petition, the petitioners filed petition to set aside the exparte order passed in the suit in O.S.No.08 of

2009. Instead of filing the petition in the suit, they filed petition in the execution proceedings. Even in the execution proceedings, the petitioners failed to pursue their application. Therefore, the trial Court rightly dismissed the said petition by an order dated 19.08.2015. As discussed above, this Court finds no illegality or infirmity in the order passed by the Court below.

12. Accordingly, the Civil Revision Petition in C.R.P.No.3495 of 2015 also stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

04.03.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

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G.K.ILANTHIRAIYAN, J.

rts

To

1. The District Munsif,
Paramathi.
2. The Joint Registrar,
Co-operative Department,
Perambalur.
3. The Deputy Registrar,
Co-operative Department,
Ariyalur.
4. The Special Officer,
Co-operative Department,
Kadoor.
5. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



C.R.P.(NPD) Nos.3435, 3436
& 3495 of 2015
and M.P.Nos.1 & 1 of 2015

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