

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(NPD)No.1874 of 2021
and C.M.P.No.14639 of 2021
(Through Video Conference)

A.V.R.Kuppusamy

...Petitioner

Versus

The Deputy Registrar of
Co- Operative Societies (Housing)
18, Varadanar Street,
Vedachalam Nagar,
Chengalpattu - 603 001
...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair order dated 10.02.2021 in I.A.No.1 of 2019 in Co-Op C.M.A.No.15 of 2010 on the file of the learned Principal District Judge of Kancheepuram at Chengalpattu.

For Petitioner : Mr.K.V.Babu

For Respondent : Dr.S.Suriya,
Government Counsel
(Co-Operative Society)

ORDER

This Civil Revision Petition is filed to set aside the order passed in I.A.No.1 of 2019 in Co-oP CMA No.15 of 2010 on the file of the learned Principal District Judge of Kancheepuram at Chengalpattu on 10.02.2021.

2. The I.A.No.1 of 2019 was filed to send for documents mentioned in the petition. The documents are:

- 1. Chengalpattu Co-Operative House Building Society has sent a letter dated 09.04.2007, to the Deputy Registrar of Co-Operative Societies (Housing), Chengalpattu; and*
- 2. On 07.09.2009, the society has sent a letter to the Deputy Registrar of Co-Operative Society (Housing), Chengalpattu.*

3. The learned counsel for the petitioner submitted that the petitioner has not committed any mis-appropriation of funds. He was the Assistant Secretary and a paid servant of Chengalpattu Co-Operative House Building Society. One Thiru. Luis Alexander was the Special Officer of the said Society. The departmental proceedings was initiated against the Special Officer, Mr.Luis Alexander under Rule 17 (B) of the

Tamil Nadu Government Servants Disciplinary Proceedings and after due enquiry, it was concluded that Mr.Luis Alexander has not caused any loss to the Society. Therefore, the documents referred in the petition are necessary for proving the case of the petitioner.

4. This petition was resisted by the respondent, alleging that the petitioner misappropriated to the tune of Rs.90,95,406.95/- . The Appeal filed in 2010 was allowed to be dismissed for default. The petitioner has not followed the procedures relied under Rule 75 of the Civil Rules of Practice. This Petition is filed only to drag on the proceedings.

5. The learned Principal District Judge of Kancheepuram at Chengalpattu, after considering the rival submissions, dismissed the petition mainly on the ground that the petitioner has not followed the procedures laid down under Rule 75 of Civil Rules of Practice. Against the said order of dismissal, the present Civil Revision Petition is preferred.

6. The learned counsel for the petitioner reiterated and submitted that the documents mentioned in the petition are absolutely necessary for proving the case of the petitioner. Though, the C.M.A. was dismissed for default, subsequently, it was restored as per the orders passed by this Court in C.R.P.(NPD)No.1337 of 2019 on 19.07.2019. Immediately after

the restoration of the appeal, the petitioner filed I.A.No.1 of 2019 for summoning the documents which as already said are necessary for the purpose of this case. However, without considering the genuine attempt made by the petitioner to prove his case, the learned Principal District Judge of Kancheepuram at Chengalpattu dismissed the petition and prayed for setting aside the order of the learned Principal District Judge of Kancheepuram at Chengalpattu in I.A.No.1 of 2020.

7. There is no one appearing for the respondent.

8. Considered the submissions of the petitioner and perused the records.

9. The production of records in custody of the Public Officer other than the Court is dealt in Rule 75 of the Civil Rules Practice. Rule 75(3) reads that, *'no Court shall issue such a summons unless it considers the production of the original necessary or is satisfied that the application for a certified copy has been duly made and not been granted.'* Admittedly, the petitioner has not taken any steps to apply and produce the certified copies of the documents now sought to be produced.

10. Learned counsel for the petitioner submitted that he wants the original documents for proving his case. The documents sought to be

produced are:

- 1. Chengalpattu Co-Operative House Building Society has sent a letter dated 09.04.2007, to the Deputy Registrar of Co-Operative Societies (Housing), Chengalpattu; and*
- 2. On 07.09.2009, the society has sent a letter to the Deputy Registrar of Co-Operative Society (Housing), Chengalpattu.*

11. The learned counsel for the petitioner is not able to convince this Court as to why the originals are necessary. These are all only letters and proceedings. It is enough if the certified copies are obtained and produced before the Court for proving his case. Petitioner is not able to satisfy the requirements contemplated under Rule 75 of Civil Rules of Practice of summoning the documents. Therefore, this Court finds that the petition was rightly dismissed and there is no need to interfere with the orders of the learned Principal District Judge of Kancheepuram at Chengalpattu.

12. However, considering the fact that the superior officer of the petitioner was exonerated in the departmental proceedings and the petitioner wants to use that proceedings in support of his case, this Court

is of the view that the petitioner should be given an opportunity to produce certified copies of those documents. Therefore, the petitioner is permitted to apply for certified copies of the documents from the respondent. On such application being made, the respondent is directed to furnish the certified copies on payment of necessary fees within a period of two weeks from the date of filing the application. Accordingly, this **Civil Revision Petition is Disposed** of. No costs. Consequently, connected miscellaneous petition is closed.

16.09.2021

Index: Yes/ No
Speaking Order / Non-Speaking Order
sts/jai

To:

The Deputy Registrar of
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18, Varadanar Street,
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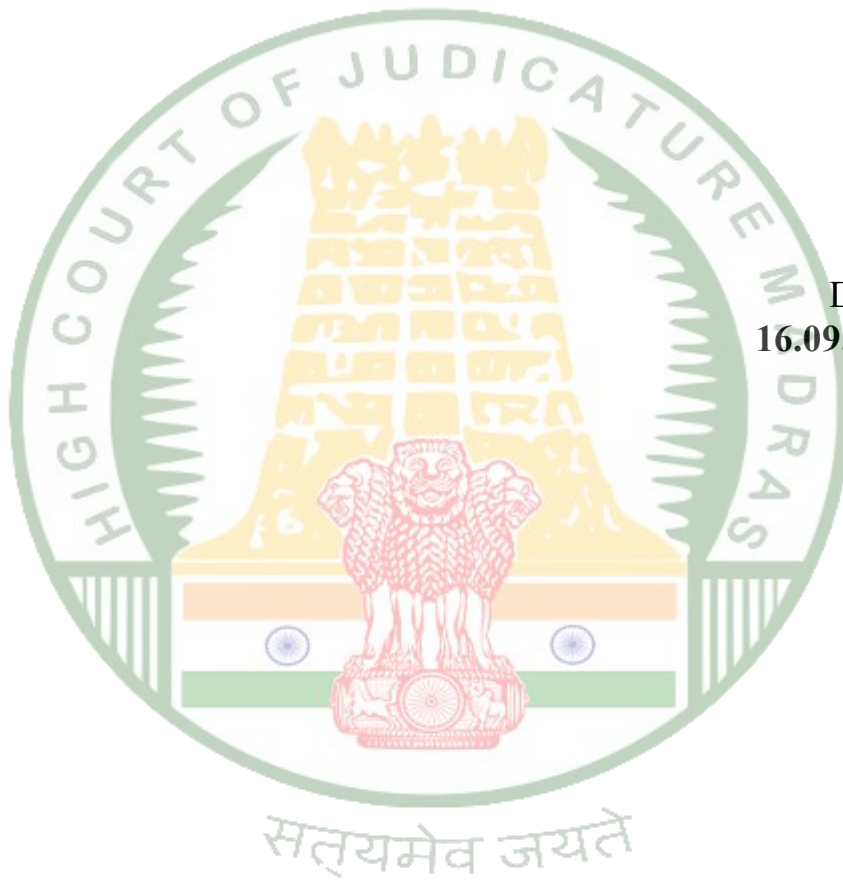


G.CHANDRASEKHARAN, J.,

sts/jai

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Order made in



Dated:
16.09.2021

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