



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P (MD) No.5359 of 2009

and

M.P (MD) .No.1 of 2009

WEB COPY

Tamil Nadu Fire Service and
Aided School Employees Co-operative,
Thrift and Credit Society Limited,
Represented by its Special Officer.

... Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies,
Tiruchirappalli.

2.R.Gurunathan

3.N.Ravichandran

4.V.Ramesh

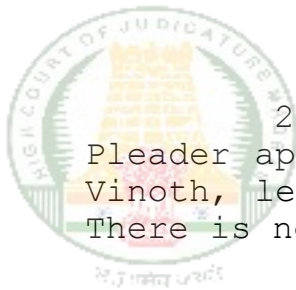
... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the Principal District Judge dated 31.10.2008 in Civil Miscellaneous Appeal (C.S.) No.77/2007 and to quash the same with costs and direct the respondent No.4 to pay the surcharge amount as directed by the Deputy Registrar of Co-operative Society in his order under reference RC.4375/2005 dated 13.07.2007.

For Petitioner	: No appearance
For R-1	: Mr.N.Satheesh Kumar, Additional Government Pleader.
For R-4	: Mr.B.Prasanna Vinoth
For R2 &R3	: No Appearance

ORDER

The writ petitioner herein was the second respondent in the Civil Miscellaneous Appeal (C.S.) No.77/2007 in which orders had been passed on 31.10.2008 by the Principal District Judge, Tiruchirappalli. The said appeal had come before the learned Principal District Court at Tiruchirappalli on appeal from the Surcharge order passed by the Deputy Registrar of Co-operative Societies, Tiruchirappalli in R.C.No.4375/2005 dated 13.07.2007. The said proceedings had been initiated *suo motu* by the Deputy Registrar of Co-operative Societies.



2. Mr.N.Satheesh Kumar, learned Additional Government Pleader appears on behalf of the first respondent and Mr.B.Prasanna Vinoth, learned counsel appears on behalf of the fourth respondent. There is no representation on behalf of the petitioner herein.

3. However, a perusal of the records shows that the petitioner / Tamil Nadu Fire Service and Aided School Employees Co-operative, Thrift and Credit Society Limited, represented by its Special Officer, though shown as the second respondent in the said appeal, has raised a ground that the fourth respondent herein who was the Secretary, had apparently committed serious misconducts inclusive of misappropriation by obtaining false certificate regarding the salary of members of the Society. They are issues of facts.

4. While addressing such issues, the learned Principal District Judge had very clearly stated that the fourth respondent herein was appointed as the Junior Assistant and was working as Secretary on promotion from 17.03.1994. It is stated that the fourth respondent should have taken care to collect the amounts questioned from the concerned persons but such responsibility was only on the petitioner herein.

5. It has also been held that the second respondent therein / the petitioner herein had not proved that there was willful negligence. In the absence of any findings of any willful negligence, the learned Principal District Judge had struck down the proceedings. These are issues of facts which this Court can never examine.

6. The Writ Petition is dismissed. If at all the petitioner seeks to file any further proceedings, as provided in the Act, against the order challenged in this Writ Petition, the petitioner can avail to seek exclusion of the time period from the date of filing this Writ Petition till this date under Section 14 of the Limitation Act, 1963.

7. This Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Lm/Nsr

<https://hcservices.ecourts.gov.in/hcservices/>



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

The Deputy Registrar of Co-operative Societies,
Tiruchirappalli.

+1 CC to M/s.SPL.GP (SR-37582[F] dated 07/12/2021)

W.P(MD)No.5359 of 2009
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RD(20.12.2021) 3P 3C