



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(MD)Nos.2606 and 2607 of 2014

In CRP(MD)No.2606 of 2014:

1.K.Archunamoorthy

2.K.Kathirvelu

... Petitioners/Appellants

-Vs-

The Deputy Registrar of
Co-operative Societies,
No.149, Anna Nagar,
Thanthonimalai,
Karur

... Respondent/Respondent

In CRP(MD)No.2607 of 2014:

A.Mohammed Usen

... Petitioner/Appellant

-Vs-

The Deputy Registrar of
Co-operative Societies,
No.149, Anna Nagar,
Thanthonimalai,
Karur

... Respondent/Respondent

PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India against the fair and decreetal order dated 31.07.2014 made in C.MA(CS)Nos.10 and 11 of 2011 on the file of the Motor Accident Claims Tribunal, Karur (Principal District Judge, Karur) confirming the order dated 04.08.2010 made in Na.Ka.No.1802/2009 SA.Pa, by the respondent herein.

In both revisions:

For Petitioners : Mr.R.Vijayakumar

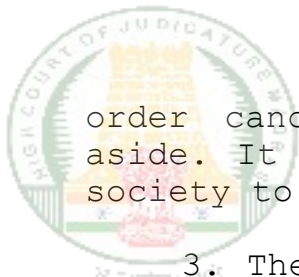
For Respondent : Mr.J.Gunaseelan Muthaiah

Additional Government Pleader

C O M M O N O R D E R

These revisions are against the orders of the Co-operative Tribunal made in C.M.A(CS) Nos.10 and 11 of 2011 challenging the surcharge orders passed by the District Registrar of the Co-operative Societies.

2. The surcharge proceedings were levied against the petitioners and four charges were framed against them. One of the charges was that a settlement under Section 18(1) of the Industrial Disputes Act has been entered into providing for payment of higher salary to the workers without authority. In reply to the said charge, the petitioners would contend that this Court in W.P.No.269 of 1998 upheld the settlement entered into with the workers and the



order cancelling the settlement made by the Government was set aside. It is also claimed that the power of the management of the society to enter into 18(1) settlement was also recognized.

3. The second charge was on the basis that the petitioners had run an unauthorized bar in the land belonging to the Society and the income derived from the bar has been totally concealed. In reply to the said charge, the petitioners had averred that they had handed over the possession of the go-down of the society to the Government for the purpose of establishing a Uzhavar Sandhai in 1999 - 2000 and therefore, there was no space available for running a bar. Reliance was placed on the certificate issued by the Assistant Commissioner of Excise clarifying that no bar was established in any of the IMFL shops situated in Karur area.

4. The third charge was on the ground of usage of electricity for the bar. The third charge will depend on the second charge.

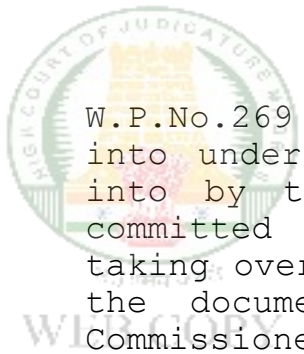
5. The fourth charge was that the petitioners had let out a building belonging to the society at a lessor rent than market rent. The Deputy Registrar, Co-operative Societies namely, the original authority passed an order on 04.08.2010 holding that the petitioners are guilty of causing loss to the society on all the four heads.

6. Aggrieved, the petitioners preferred two appeals in C.M.A (CS) Nos.10 and 11 of 2011. The Co-operative Tribunal, on a cursory examination of the material on record without advertting to the independent evidence that was available, agreed with the original authority and dismissed the appeals. Hence, these revisions.

7. I have heard Mr.R.Vijayakumar, learned counsel appearing for the petitioners and Mr.J.Gunaseelan Muthaiah, learned Additional Government Pleader appearing for the respondent.

8. Mr.R.Vijayakumar, learned counsel appearing for the petitioners would contend that the Co-operative Tribunal, which is a fact finding court, had not considered the evidence on record and it merely referred to the conclusions of the original authority and confirmed the said conclusions. He would further contend that when the documents are available to show that the land to an extent of 272.22 sq metres of land was handed over to the Government for construction of Uzhavar Sandhai, the Tribunal has stated that only 272.22 sq feet of land was handed over. He would also point out that the material that was available in the form of official document namely, the certificate issued by the Assistant Commissioner of excise was not at all considered.

9.A reading of the order of the Tribunal justifies the contention of the learned counsel for the petitioner. The Tribunal has merely stated that financial loss has been caused. The Tribunal



W.P.No.269 of 1998, wherein, the validity of the settlement entered into under Section 18(1) of the Industrial Disputes Act was gone into by this Court and the same was upheld. The Tribunal has committed a mistake in relying the document namely handing and taking over report filed by the petitioners and has totally ignored the document namely, the certificate issued by the Assistant Commissioner of Excise in which it has been clearly observed that no bar was in fact situated in the property belonging to the society during the relevant period. If the second charge relating to establishment of the bar goes, the third charge which is for the usage of electricity will also go. As regards the fourth charge, namely, renting out the building the petitioners had produced a material to show that tenancy was only for very short period. All these facts have not been considered by the Tribunal.

8. I find that the order of the Tribunal is very scrappy and is liable to be set aside. Hence, the common order dated 31.07.2014 made in C.MA(CS)Nos.10 and 11 of 2011 on the file of the Co-operative Tribunal, Karur (Principal District Judge, Karur) confirming the order dated 04.08.2010 made in Na.Ka.No.1802/2009 SA.Pa, by the respondent herein, is set aside, the matter is remitted back to the Tribunal. The Tribunal is directed to consider the evidence on record and pass orders afresh.

9. In fine, these revisions are allowed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

To

1.The Motor Accident Claims Tribunal,
Karur (Principal District Judge, Karur).

2. The Section Officer,V.R.Section,
Madurai Bench of Madras High Court, Madurai.(2 copies)

+1 CC to M/s.SPL GP (SR-8236 & 8237[F] dated 02/03/2021)

+1 CC to M/s.R.VIJAYA KUMAR, Advocate (SR-8286[F] dated
02/03/2021)

Order made in

C.R.P(MD)Nos.2606 and 2607 of 2014

01.03.2021

ES(CO)

TR(25.03.2021) 3P 6C