



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:21.12.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

C.R.P (MD)No.2140 of 2015 (NPD)

and

M.P (MD)No.1 of 2015

K.S.Mariyappan ... Petitioner/Appellant/2nd Defendant

Vs.

1.The Secretary,
A, 1456, Sivakasi Municipality
Employees Co-operative Thrift Society Ltd.,
Sivakasi Town,
Virudhunagar District.

2.The Deputy Registrar,
Office of the Deputy Registrar Co-operative Societies,
No.1, West Mada Street,
Srivilliputtur. ... Respondents/Respondents/Plaintiffs

(cause title amended as per the order of
this Court dated 18.12.2015 made in
M.P. (MD).No.2 of 2015 in C.R.P (MD)
No.2140 of 2015)

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decree made in C.M.A.(C.S)No.17 of 2009 dated 05.06.2015 on the file of the Principal District Court, Virudhunagar District at Srivilliputhur, modifying the order made in Tha.Na.No.5/2008-2009 dated 08.06.2009 on the file of the 2nd respondent herein.

For Petitioners : Mr.V.B.Sundhareshwar

For R1 : Mr.L.George Paul Anto

O R D E R

This Civil Revision Petition is filed to set aside the order and decree dated 05.06.2015 passed in C.M.A.(C.S)No.17 of 2009 by the Principal District Court, Virudhunagar District at Srivilliputhur and to modify the order made in Tha.Na.No.5/2008-2009, dated 08.06.2009 on the file of the second respondent.



2.The second respondent initiated the surcharge proceedings against the petitioner and one Baskaran and an order was passed that they were caused loss to the Society to the tune of Rs.2,93,502/- and to recover the same from them jointly or separately with 15 % interest. Challenging the said order, the petitioner filed Civil Miscellaneous Appeal before the Principal District Judge, Virudhunagar District, Srivilliputhur. The learned Principal Judge, after hearing the arguments advanced on either side, dismissed the Civil Miscellaneous Appeal. Aggrieved over the same, the petitioner has filed the present Civil Revision Petition before this Court.

3.The learned counsel appearing for the petitioner would submit that totally three charges were levelled against the petitioner, out of which, the petitioner was relieved from two charges. The third charge is that without having any authority, the petitioner has appointed one Baskaran as Secretary (in-charge), and caused loss to the Society and the said charge was perverse. Further, the petitioner appointed the said Baskaran, as per the resolution passed by the member of the first respondent Society. Though the petitioner has not appointed unanimously, the second respondent erroneously passed the order. The Appellate Authority viz., the Principal District Judge, Srivilliputhur, has failed to consider the submission made by the revision petitioner that as per the resolution passed by the first respondent Society, he has appointed the said Baskaran as Secretary (in-charge) and dismissed the appeal filed by him. Therefore, the order passed by the Appellate Authority is perverse and the same is liable to be set aside.

4.The learned counsel appearing for the first respondent would submit that though three charges were framed against the petitioner, he relieved from two charges, the third charge framed against the petitioner was proved. Though the petitioner challenged the order of surcharge proceedings passed by the second respondent before the Principal District Judge, Srivilliputhur, who is the Appellate Authority for the Co-operative Society, the Appellate Authority considered the entire facts and dismissed the appeal that the third charge framed against the petitioner was proved. The learned counsel would further submit that the petitioner has not produced any document to show that under what authority the petitioner appointed the said Baskaran, as Secretary(in-charge). Therefore, the second respondent as well as the Appellate Authority have rightly given findings that the revision petitioner appointed the said Baskaran, without having any authority, due to which, they caused loss to the Society. Therefore, there is no merit in the revision and the same is liable to be dismissed.

5.The learned counsel appearing for the second respondent submitted that the second respondent is only a formal party.

<https://hcservices.court.gov.in/hcservices/> B.Sundhareshwar, learned counsel appearing for the



petitioners and Mr.L.George Paul Anto, learned counsel appearing for the first respondent and perused the materials placed before this Court.

7.Admittedly the second respondent initiated the surcharge proceedings against the petitioner and one Baskaran. Challenging the said proceedings, the petitioner filed an appeal before the Appellate Authority viz., the Principal District Judge, Srivilliputhur. After hearing the arguments, the Appellate Authority found that the third charge framed against the petitioner was proved and also found that the petitioner appointed the said Baskaran as Secretary (in-charge), without having any authority and caused loss to the Society and dismissed the appeal. Though the learned counsel for the petitioner submitted that there is a resolution passed by the first respondent Society for appointment of the said Baskaran as Secretary, he has not appointed the said Baskaran, as to his own willing and both the second respondent as well as the appellate authority has failed to consider that aspect. On a perusal of the records, it is seen that the petitioner has not produced any resolution said to have been passed by the first respondent Society. Though in the absence of any such resolution/document of any authorization, the petitioner cannot say that he is an authority to appoint the said Baskaran, as a Secretary(in-charge).

8.It is the settled proposition of law that the revisional jurisdiction is limited one. Since the Appellate Authority is a final Court of fact finding, had re-appreciated the entire materials and given a finding. While exercising the revisional jurisdiction, this Court cannot sit in the arm chair of the appellate Court and re-appreciate the entire evidence. The Appellate Authority has given findings after hearing the arguments and has found no substance in the arguments of the revision petitioner. The findings of facts recorded by both the second respondent and the Appellate Authority may not be interfered with in this revision. Hence, there is no merit in the revision. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Principal District Court,
Virudhunagar District
Srivilliputhur.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-39936[F] dated
22/12/2021)

**C.R.P (MD) No.2140 of 2015 (NPD) and
M.P (MD) No.1 of 2015
21.12.2021**

RD(12.01.2022) 4P 5C