



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

C O R A M

THE HON'BLE MS.JUSTICE V.M.VELUMANI

W.P.No.4486 of 2021
and W.M.P.No.5114 of 2021

S.Pattabiraman

...Petitioner

Vs

- 1.The Registrar of Co-operative Societies,
Kilpauk, Chennai - 600 010.
- 2.The Deputy Registrar of Co-operative Societies,
Mannargudi, Thiruvarur District - 614 001.
- 3.The Managing Director,
The Central Co-operative Bank Ltd.,
Thanjavur.
- 4.The President,
Z.E.85, Nallur Primary Agricultural
Co-operative Credit Society,
Nallur, Mannargudi Taluk,
Thiruvarur District.

...Respondents

Prayer Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for all the records relating to the impugned recovery order in Rc.3972/2017 sa.pa dated 04.11.2019 issued by the 2nd respondent and quash the same.

For Petitioner : Mr.A.M.Packianathan Easter

For Respondents: Mr.R.Kumaravel
Additional Government Pleader

ORDER

The petitioner has come out with the present Writ Petition challenging the order passed by the 2nd respondent in surcharge proceedings dated 04.11.2019, under Section 87 of the Tamilnadu



Co-operative Societies Act (hereinafter referred as 'the Act') and to quash the same.

2. According to the petitioner, while he was working as the Secretary of Nallur Primary Agricultural Co-operative Credit Society, Nallur, Mannargudi Taluk, Thiruvarur District, applications were received with regard to the amount to be paid by the Agricultural Insurance Company of India on 10.02.2012 for sanctions to gingelly farmers. After scrutinising applications, the same were forwarded to the Insurance Company by the 3rd respondent. After verification of the details, the Insurance Company sanctioned the amount to the 3rd respondent. The 3rd respondent released the amount for being disbursed to the 4th respondent Society. The 4th respondent, complying with the instructions and guidelines prescribed by the 3rd respondent Bank disbursed the said amount to the beneficiaries by crediting in their respective Savings Bank accounts. Subsequently, based on the complaint given by some of the farmers, enquiry under Section 81 of the Act was conducted. Based on the report of the Enquiry Officer, the 2nd respondent passed impugned order, ordering recovery from the petitioner. Challenging the said impugned order, the present Writ Petition is filed.

3. The learned counsel appearing for the petitioner submitted that in the enquiry conducted under Section 81 of the Act, the Enquiry Officer has erroneously held that the amount disbursed was a loan and thereby caused loss to the Society. There is no loss to the Society. It is only a public money payable to the beneficiaries by way of insurance. He further submitted that no notice was served on the petitioner in the proceedings conducted by the 2nd respondent under Section 87 of the Act. There is no ingredients of wilful negligence on the part of the petitioner to pass surcharge order and prayed for setting aside the impugned order.

4. The 2nd respondent filed counter affidavit and denied all the averments. Mr. R. Kumaravel, learned Additional Government Pleader appearing for the respondents submitted that the 3rd respondent Bank, on 19.04.2013, released a sum of Rs. 30,79,236.10 to 21 Farmers towards 2011-2012 Crop Insurance Indemnity to Non-Loanee Farmers for Gingelly and a sum of Rs. 2,34,197.29 to 5 Loanee Farmers towards 2012-2013 Crop Insurance Indemnity to Jewel Loan obtained by the farmers. The petitioner failed to follow the instruction of the Agricultural Insurance Company as well as 4th respondent Bank and acted with mala fide intention to grab the Government funds. The notice of surcharge proceedings was received by the petitioner and he



sought for certain documents. The said documents were furnished to the petitioner and that all the documents relied on by the 2nd respondent in the surcharge proceedings including the report of the Enquiry Officer under Section 81 of the Act was furnished to the petitioner. The petitioner, without furnishing any details of documents required by him was trying to protract the proceedings. After giving opportunity to the petitioner, he was set exparte as he failed to appear for the enquiry and the 2nd respondent has passed the impugned order. The petitioner has committed irregularities in disbursing the amount released by the 3rd respondent on 19.04.2013 to 29.04.2013. The 2nd respondent initiated proceedings and conducted enquiry, examined persons in whose name the amounts alleged to have been disbursed. Those persons denied that they have received the amounts. He further submitted that the petitioner has effective alternative remedy before the Co-operative Tribunal under Section 152 of the Act. Without exhausting the effective alternative remedy, the present Writ Petitioner is not maintainable and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner as well as Mr.R.Kumaravel, learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

6. From the above materials, it is seen that the 2nd respondent has issued notice in the surcharge proceedings and the petitioner received the same. He also sought for certain documents and according to the 2nd respondent, all the documents relied on by the petitioner in the surcharge proceedings including the report of the Enquiry Officer appointed under Section 81 of the Act, were given to the petitioner. Subsequently, number of the notices were issued to the petitioner. In view of the same, the contention of the learned counsel appearing for the petitioner that without issuing notice to the petitioner, the 2nd respondent conducted enquiry and passed the impugned order is contrary to the facts of the case and there is no statutory violation. As per Section 152 of the Act, the petitioner has affective remedy of appeal before the Co-operative Tribunal. The petitioner has not given any reason for not availing the appeal remedy, as provided under Section 152 of the Act. In view of the same, the Writ Petition is liable to be dismissed. It is open to the petitioner to file appeal, if he so desire or advised.



7. With the above observations, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

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Co-operative Credit Society,
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Thiruvarur District.

+2 Ccs to Mr. A.M. Packianathan Easter, Advocate sr 23519
+1 CC to The Special Government Pleader sr 23390.

W.P.No.4486 of 2021

SKM(CO)
SP(25/04/2022)