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C.R.P(NPD)No.2018 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Civil Revision Petition (NPD) No.2018 of 2016

Managing Director,
Uthangarai Agricultural Producers,
Co-operative Marketing Society Ltd.,
Uthangarai,
Krishnagiri District.

...Petitioner

Vs.

- 1.T.Gevichennan
- 2.The Deputy Registrar of
Co-operative Societies,
Dharmapuri.
- 3.The Sale Officer/ Co-operative Sub Registrar
And Field Officer, Uthangarai
C/o, Uthangarai Agricultural Producers
Co-operative Marketing Socceity Ltd.,
Uthangarai,
Krishnagiri District.

...Respondents

This Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the judgment and decree in C.M.A(CS)No.11 of 2015 dated 01.04.2016 on the file of the Co-operative Tribunal (Principal District Judge), Krishnagiri.



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For Petitioner : Mr.M.S.Palaniswamy

For Respondent – 1 : No Appearance

For Respondent - 2 : Dr.S.Suriya,
Additional Govt. Pleader

For Respondent - 3 : Dismissed vide order dated
02.08.2018 in

C.R.P(NPD)No.2018 of 2016

ORDER

This Civil Revision Petition has been filed by the petitioner challenging the judgement and decree passed by the learned Principal District Judge, Co-operative Tribunal (Principal District Court) Krishnagiri in C.M.A(CS)No.11 of 2015 dated 01.04.2016, allowing the appeal filed by the first respondent, seeking to set aside the attachment and sale proceedings dated 10.08.2015 passed in E.P.No.58 of 2007-08 in Surcharge Award No.6473/2002 Sa.Pa.2 of the second respondent.

2. The facts of the case in a nutshell are as follows:

The first respondent was an employee of the petitioner society. The petitioner society lodged a complaint against the first respondent stating that



he has misused the cash loan provided for the public distribution system and sold the petitioner society's cotton goods to the traders in sale auction and allowed the traders to take the said goods without making any payment to the society. Therefore, the second respondent vide Surcharge proceedings dated 07.06.2004, levied a sum of Rs.1,60,75,887.93 as surcharge on the first respondent. Aggrieved over the said Surcharge proceedings, the first respondent has preferred an appeal before the Co-operative Tribunal (Principal District Judge), Krishnagiri and the same was allowed vide judgment and decree dated 01.04.2016. Challenging the said judgment and decree, the petitioner society has come before this Court with the present Civil Revision Petition.

3. The learned counsel for the petitioner has brought to the notice of this Court that in a case of similar nature, this Court has passed an order in favour of the petitioner therein. In support of his contention he has relied on the common order passed by this Court in C.R.P(PD) Nos.2748 to 2751 of 2013, dated 17.02.2017, wherein, this Court has held as follows:

“11. It is the specific case of the petitioner society that the loss suffered by it on account of the dereliction of duty on the part of the first



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respondent in each of the revisions and other employees of the said society had not been made good. It is strange as to how the first respondent in each of the revisions and other employees, allowed traders to take away the cotton goods even without securing the amount payable by them or receiving advance for such sale. Prima facie, this Court is of the view that the allegations levelled against the first respondent in each of the civil revision is grave.

12. When such grave allegations have been levelled against the first respondent in each of the revisions and surcharge proceedings have been passed, the Tribunal, which is the Appellate Authority, ought to have considered the veracity of the statement of accounts produced before it. It is disputed by the petitioner society that the veracity of the said document was not verified by the Tribunal with reference to the originals, nor the person who made such statement of account was examined to justify its veracity.

13. Admittedly, the petitioner society suffered loss on account of the act of the first respondent in each of the revisions. If the first respondent is to prove that the loss suffered by the petitioner society had been made good by production of any statement of account or any other document, it should be only in the manner known to law, after putting on notice the petitioner society. That apart, it is not in dispute that the disputed document has been admitted in evidence without proof. Without proper proof affidavit, the said disputed document ought not to have been relied upon by the Tribunal.

14. For the foregoing reasons, these revisions are allowed and the impugned order dated 04.10.2012 is set aside and the matter is remitted to the District Co-operative Tribunal (Principal District Judge), Krishnagiri, to consider the matter afresh, without being swayed away by



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the observations made above, and pass appropriate orders within a period of two months from the date of receipt of a copy of this order. No costs.”

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He therefore prayed that the similar relief may be granted to the petitioner herein.

4. Considering the submissions made by the learned counsel for the petitioner and also, following the order passed by this Court in C.R.P (PD) No.2748 to 2751 of 2013, this Civil Revision Petition is allowed and the impugned order dated 01.04.2016 is set aside and the matter is remanded back to the Co-operative Tribunal (Principal District Court), Krishnagiri, for fresh consideration. The learned Principal District Judge, Co-operative Tribunal (Principal District Court) Krishnagiri is directed to re-consider the matter and pass appropriate orders on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order.

5. In the result, this Civil Revision Petition is disposed of with the above observations. No costs.

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Index : Yes/No
Speaking Order : Yes/No

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J.SATHYA NARAYANA PRASAD, J.

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To

The Co-operative Tribunal (Principal District Judge),
Krishnagiri.

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