



C.R.P. No. 1445 of 2017

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 1445 of 2017

and

C.M.P. No. 6741 of 2017

**Mr.Mani,
S/o. Ramalingam**

... Petitioner

Versus

**1. The Deputy Registrar of Cooperative
Societies (Credit),
Kuralagam Complex,
Chennai-108.**

**2. The Special Officer,
Chennai Central Cooperative Bank Limited,
215, Prekasam Salai,
Chennai.**

**3. The Registrar,
Special Tribunal for Cooperative Cases,
Chennai. Chief Small Causes Court
at Chennai, Chennai-600 104.**

... Respondents



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PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the order and decretal order dated 21.12.2016 passed in C.M.A. No. 11 of 2014 on the file of Special Tribunal for Cooperative Cases, Chennai (In the court of Small Causes, Chennai).

For Petitioner : Mr.G.Thangavel
For Respondents : Mr.B.Tamilnidhi,
Addl. Govt. Pleader for R1
Mr.P.Anbarasan for R2

ORDER

Challenging the order passed by the Special Tribunal for Cooperative Cases, Chennai in C.M.A.No.11 of 2014, the appellant preferred this Civil Revision Petition contending that the said Tribunal failed to take note of the fact that the surcharge proceeding already initiated against the revision petitioner in C.M.A.No.23 of 2010, which was challenged before the 3rd respondent and in that proceedings, the maintainability of 1st surcharge proceedings was not maintainable in the eye of law and the 3rd respondent allowed the C.M.A.No.23 of 2010 holding that surcharge proceeding itself is unlawful in nature in its order dated 28.08.2014.



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WEB CONTENT

2. Now, the Revision Petitioner/Appellant preferred this Civil Revision Petition challenging the order passed in C.M.A.No.11 of 2014 by the Special Tribunal for Cooperative Societies. The learned counsel appearing for Revision Petitioner submitted that the lower court already observed that under Sec.87 of the Tamil Nadu Cooperative Societies Act, the procedures in surcharge proceedings has not been followed properly. Hence, he has challenged the same before the tribunal, but the learned Special Tribunal concludes that statutory requirement as contemplated under the Act was not mandatory and all the procedures were followed in the Surcharge proceedings. Accordingly, the appeal was dismissed as it is not maintainable in law. To set aside the same, the present Civil Revision Petition has been filed.

3. The learned counsel appearing for Revision Petitioner submitted that the learned Special Tribunal ought to have analysed the issues involved in the subject matter and the enquiry report, in which, the liability is established only against the co-delinquent. Hence, the revision petitioner cannot be held responsible for any of the offence. Furthermore, though the revision petitioner requested for relevant copies of certain documents and



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copy of the inquiry report, the 1st respondent concluded the surcharge proceeding of issuance of notice by fixing the responsibility and passed the final order on 07.10.2008.

4. By way of reply, the learned counsel for respondents submitted that the offence committed by the petitioner along with others are found out much earlier in the year of 2007 and the enquiry report was also submitted. Based upon that, the surcharge proceedings was initiated and before the surcharge enquiry, the revision petitioner has requested copies of documents and the enquiry report. But, he has not attended the proceedings and subsequently, he has also not appeared for surcharge enquiry inspite of several opportunities were given. Thereafter, the surcharge order was issued on 07.10.2008. Furthermore, with regard to another respondent cooperative bank, challenging the orders passed by the Special Tribunal as well as sale certificate obtained in respect of the property for the value of Rs.17,00,000/-, the same are now under challenge by way of writ proceedings.

5. On seeing the entire records, it would reveals that the surcharge proceedings as contemplated under Sec.87 of the Act is to be completed



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within the stipulated time, in fact, the surcharge proceedings was not completed within stipulated time of six months which is mandatory, but the same was not complied by the authority. Hence, Revision Petitioner prayed to set aside the same. However, as discussed above, it is only regulatory, inspite of several opportunities given to the petitioner to appear before the surcharge enquiry proceedings he has not appeared. Therefore, the court below rightly appreciated the facts and dismissed the C.M.A., which needs no interference. From the year of 2017 onwards, there is no progress in the surcharge proceedings due to the pendency of this C.R.P. Hence, this Court is inclined to dismiss the C.R.P. as no merits and the findings of the learned Special Tribunal for Cooperative Cases in C.M.A.No.11 of 2014 is confirmed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

19.10.2022

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To
Special Tribunal for
Cooperative Cases, Chennai.

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