



W.A.No.233 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.No.233 of 2020
and
C.M.P.No.3740 of 2020

P.Natarajan

.. Appellant

Vs.

1.The Deputy Registrar of Cooperative
Societies (Housing),
Pondy Main Road,
Cuddalore, Cuddalore District.

2.The President,
S.A.H.S.G.46, Thanthai Periyar Transport Corporation
Employees Cooperative Housing Society,
Trichy Main Road, Villupuram,
Villupuram District.

.. Respondents

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent, praying
to set aside the order dated 24.09.2019 in W.P.No.17569 of 2019.

For Appellant : Mr.C.Prakasam

For R1 : Mr.P.Gurunathan
Additional Government Pleader



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For R2

: Mrs.R.L.Karthika
Government Advocate

J U D G M E N T

(Judgment of the Court was delivered by V.M.VELUMANI, J.)

The present Writ Appeal is filed to set aside the order dated 24.09.2019 in W.P.No.17569 of 2019.

2. Heard Mr.C.Prakasam, learned counsel appearing for the appellant, Mr.P.Gurunathan, learned Additional Government Pleader appearing for the 1st respondent as well as Mrs.R.L.Karthika, learned Government Advocate appearing for the 2nd respondent and perused the entire materials on record.

3. According to the appellant, he is the former President of Thanthai Periyar Transport Corporation Employees Co-operative Housing Society. An enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 was conducted by the 1st respondent and it was found certain irregularities of mis-appropriation committed by the appellant and others. The 1st respondent initiated surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983.



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The appellant after receipt of the summons on several occasions, did not appear for enquiry and he appeared only on 12.11.2018. On that day, he sought for two weeks time for submitting his explanation. Subsequently, he did not appear for enquiry and gave his explanation.

4. According to the appellant, he submitted his explanation but the 1st respondent without considering the same has passed the impugned surcharge order fixing the liability on the appellant. The appellant filed W.P.No.17569 of 2019 challenging the surcharge proceedings.

5. This Court called for records and found that the appellant has not submitted explanation but by his letter dated 25.04.2019 sought for copies of certain documents.

6. The learned Single Judge of this Court by the order dated 24.09.2019 dismissed the writ petition holding that if appellant is aggrieved by surcharge order, he has to avail the statutory remedy available under the Act and the issue cannot be decided in the writ proceedings. Challenging the said order, the appellant has filed the present writ appeal.



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7. The learned counsel appearing for the appellant reiterated the averments in the affidavit filed in support of the writ petition and grounds in the writ petition contending that the 1st respondent, without considering the explanation of the appellant has passed surcharge order and made submissions on merits.

8. From the order of the learned Judge, it is seen that this Court dismissed the writ petition holding that the appellant has to avail statutory remedy and the issue cannot be decided in the writ proceedings.

9. In view of the fact that the appellant has not availed statutory remedy of appeal provided under Section 152 of the Tamil Nadu Co-operative Societies Act, 1983, in order to give an opportunity to the appellant to put forth his case, the appellant is directed to file appeal before the Principal District Judge/Co-operative Tribunal, Cuddalore, within a period of four weeks from the date of receipt of a copy of this order. If such appeal is filed within the time limit granted by this Court, the Principal District Judge/Co-operative Tribunal, Cuddalore is directed to entertain the appeal and pass orders on merits and in accordance with



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law, without being influenced by the order passed in the writ petition,
after giving opportunity to the petitioner.

10. With the above directions, the Writ Appeal is disposed of. No
costs. Consequently, connected miscellaneous petition is closed.

(V.M.V., J) (V.L.N., J)
28.02.2023

Index : Yes / No
Neutral Citation : Yes / No
dm

To

1.The Deputy Registrar of Cooperative
Societies (Housing),
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Cuddalore, Cuddalore District.

2.The President,
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Employees Cooperative Housing Society,
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Copy to

The Principal District Judge/Co-operative Tribunal,
Cuddalore.



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V.M.VELUMANI, J.
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