



C.R.P.(MD).No.746 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 30.11.2023

Delivered on: 08.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P.(MD)No.746 of 2019

The Deputy Registrar of Co-operative

Societies,

Office of the Deputy Registrar of

Co-operative Society,

Melamadveethi, Srivilliputhur,

Virudhunagar District.

... Revision Petitioner / Respondent

Vs.

T.Dhanapakkiam

... Respondent / Appellant

Prayer:-Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 04.04.2018 made in C.M.A.(CS)No.19 of 2010, on the file of the Co-operative Tribunal – Principal District Court, Virudhunagar at Srivilliputhur partly reversing the order passed by the Deputy Registrar of Co-operative Societies, Virudhunagar, in surcharge proceedings Tha.Na.No.1/2009, Na.Ka.704/10 Sa.Pa dated 17.05.2010.



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For Petitioner : Mr.S.Kumar

For Respondent : Mr.T.Ravichandran

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ORDER

The Civil Revision Petition is at the instance of the Deputy Registrar of Cooperative Society, Srivilliputhur, aggrieved by the portion of the award passed in surcharge proceedings in C.M.A.(CS)No.19 of 2010, on the file of the Principal District Court, Virudhunagar at Srivilliputhur.

2. The respondent was the Secretary of Sp. Spl.64, Kattalaipatti Primary Agricultural Cooperative Credit Society and action was initiated against him for dereliction of duty. According to the revision petitioner because of the inaction of the respondent, 46 loans had become time barred during the period commencing from 15.08.1994 and ending 13.03.2001, causing a loss of Rs.2,82,268/- to the Society.

3. Before the Deputy Registrar, Co-operative Society, Virudhunagar, in surcharge proceedings, the respondent herein was found guilty on 11 counts. Aggrieved by the said proceedings, the respondent



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preferred C.M.A.(CS)No.19 of 2010, before the Tribunal.

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4. The Tribunal allowed the appeal in part, setting aside the surcharge proceedings in respect of 3 items, namely, item Nos.3, 4 and 8 as discussed in its judgment dated 04.04.2018.

5. Aggrieved by the exoneration of the respondent on these 3 counts, the revision has been preferred, challenging the order of the Tribunal. It is the contention of the revision petitioner that the respondent was the sole cause for loss for the Society and what it was established that the respondent was grossly negligent, by not initiating action under Section 90 against the defaulters, no exception to be taken to his conduct and on such grounds, prayed for the order of the District Registrar of Co-operative Society to be restored.

6. The learned counsel for the revision petitioner would also invite my attention to Section 150 of the Tamil Nadu Co-operative Societies Act, 1983 and state that non availability of the loan document cannot be cited as an excuse and the respondent ought to have taken recourse to Section 150 of the Act and ensured that action was initiated



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against all the defaulters / borrowers.

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7. Per contra, the learned counsel for the respondent would submit that insofar as items 3 and 4 are concerned, pertaining to irregularity in purchase, the Tribunal has found that the concerned seller has admitted liability and also only sought for time to indemnify the revision petitioner in respect of the losses sustained. The Tribunal therefore found that, the respondent, in view of the admission of the seller, could not be fastened with any liability.

8. The learned counsel for the revision petitioner would also fairly submit that insofar as the items 3 and 4, the revision petitioner is not seriously pressing the revision as against the respondent. However, the learned counsel for the revision petitioner would contend that insofar as the 8th item was concerned, the explanation of the respondent was highly unsatisfactory and the reasoning of the Tribunal cannot also be sustained in view of the specific mandate available under Section 150 of the Tamil Nadu Co-operative Societies Act, 1983. The learned counsel of the revision petitioner would therefore pray for the revision being allowed at a



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last insofar as the 8th item is concerned.

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9. Per contra, the learned counsel for the respondent would submit that in respect of all the 3 items, the respondent cannot be fastened with any liability, as the respondent has taken all diligent steps to recover the loans from the defaulters and in respect of the items 3 and 4, in view of the admission of liability made by the seller, the Tribunal had rightly disallowed the 3 items and contended that insofar as the remaining items, the respondent had accepted the award and also settled the amounts to the Society. The learned counsel for the respondent prayed for dismissal of the revision.

10. After hearing the learned counsel for the parties and also on going through the records, including the judgment of the Tribunal, I find that insofar as the item 3 is concerned, as fairly conceded by the learned counsel for the revision petitioner, in view of the developments, pending the Tribunal's decision, the respondent cannot be found guilty and consequently fastened with the liability by way of surcharge proceedings,



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as the seller had undertaken to make good the loss suffered by the revision petitioner. The finding of the Tribunal with regard to two items (viz., item Nos.3 & 4) does not require any interference.

11. Insofar as the 4th item, it is pertaining to an advance payment of Rs.4,500/-. Even in respect of item No.4, the amount involved is Rs.4,500/- in respect of purchase made from the very same seller, one Mr.Velusamy, who is also the seller in respect of item No.3 is concerned. The Tribunal has rightly found that the seller has not denied the receipt of Rs.4,500/- and merely because a receipt was obtained on a plain paper, it would not mean that the respondent misappropriated the said amount and the Tribunal has rightly found that the liability can be only on the seller alone.

12. Coming to the 8th item, it pertains to failure of the respondent to initiate action under Section 150 of the Tamil Nadu Co-operative Societies Act, 1983 against the defaulters. It is the specific case of the respondent that in respect of 37 loans, the loan documents were not



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available in the Society, a resolution was passed by the Society to take action under Section 150 of the Tamil Nadu Co-operative Societies Act, 1983. It is seen from the records that pursuant to the said resolution, an application was also made under Section 150 of the Tamil Nadu Co-operative Societies Act, 1983, seeking necessary certificate to be issued. However, the same has been returned by the concerned Authority on the ground that no action could be taken. It, therefore, cannot be stated that the respondent has failed to take any action. Though Section 150 of the Tamil Nadu Co-operative Societies Act, 1983, entitles a registered Society to make an application to the Registrar to issue a certificate of recovery of amount due and that the said power of registrar to issue such certificate is not withstanding any of the other provisions contained in the Act, it is seen from the records that such a step was taken under Section 150 Tamil Nadu Co-operative Societies Act, 1983. The Tribunal has found that the application was duly made to the Registrar and the same was returned on the ground that no further steps could be taken.

13. In such circumstances, I do not see any irregularity or infirmity in the findings of the Tribunal, holding that the respondent



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cannot be made liable for inaction on his part, in initiating proceedings under Section 150 of the Tamil Nadu Co-operative Societies Act, 1983.

For all the above reasons, I do not see any justifiable grounds warranting interference with the findings of the Tribunal.

14. In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs. There shall be no order as to costs.

Internet : Yes
Index: Yes/No
Neutral Citation: Yes/No
Ls

08.12.2023

To

1. The Co-operative Tribunal
– Principal District Court,
Virudhunagar at Srivilliputhur.
2. The Deputy Registrar of Co-operative Societies,
Virudhunagar.



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3. The Section Officer,

VR Section,

Madurai Bench of Madras High Court,

Madurai.



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P.B.BALAJI,J.

LS

order in
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