



C.R.P.(MD)No.414 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD)No.414 of 2018

and

C.M.P.(MD)No.1820 of 2018

1.N.Siva Subramanian

... Petitioner / Appellant/

1st Defendant

Vs.

1.The Deputy Registrar of Co-operative Society,

Cheranmahadevi,

Tirunelveli.

2.The Co-operative Sub Registrar,

Surcharge Proceeding Officer,

Field Officer, Cheranmahadevi,

Tirunelveli.

... Respondents/ Respondents /

3.A.71 Veeravanallur Cooperative Urban Bank,

represented through Managing Director,

Veeravanallur, Tirunelveli.

... 3rd Respondent/ 3rd Respondent /

Plaintiff



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Prayer: This Civil Revision Petition is filed Article 227 of the Constitution of India, to call for the entire records pertaining to the award, dated 25.01.2016 passed by the second respondent consequent to the surcharged proceedings No.6/2015-2016, dated 30.05.2016, which has been subsequently confirmed by the Principal District Judge, Tirunelveli, in C.M.A(CS)No.31 of 2016, vide order, dated 14.11.2017 and to set aside the same.

For Petitioners : Mr.R.Anand

For Respondents : Mr.Senthil Ayyanar
Government Advocate for R1&R2

: Mr.P.Samuel Gunasingh for R3

: No appearance for R4

ORDER

The revision petitioner is the appellant / first defendant. The instant Civil Revision Petition has been filed against the order passed by the order of the Court below in C.M.A.No.31 of 2016.



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2. The learned counsel for the petitioner would submit that the very order passed by the Court below is erroneous, as the Court below did not go into the merits of the matter.

3. The learned counsel for the petitioner would submit that the specific submission made by the petitioner is that, he has not been served with 86 enquiry report, and that the said factum, has not been considered by the Court below and that the amounts are all very paltry sum and that the same has been spent only for the benefit of the Society. Therefore, contended that such expenditure cannot be construed as misappropriation so as to initiate the surcharge proceedings. Hence, prayed to allow the Revision.

4. The learned Government Advocate strongly object the contention and would submit that the very surcharge proceedings has been initiated in pursuance of 82 inspection and such inspection report has already been furnished to the petitioner herein, which factum can be inferred from the typed set as the petitioner himself has filed 82 enquiry report along with typed set.



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5. The learned Government Advocate would further submit that whether the petitioner has spent the amount for the benefit of Society or not, is not an issue to be decided. But, the issue only to be decided is whether the petitioner is acted as per the Rules and Regulations of the Tamil Nadu Co-operative Societies Act.

6. I have given my anxious consideration to the either side submissions.

7. The first charge raised against the petitioner is that he has cancelled the contract of the existing service provider for engagement of Watchman and engaged a different agency with an increased salary of Rs.2,500/- per month and thereby, the petitioner has caused loss to the tune of Rs.2,500/- per month, totaling a sum of Rs.19,136/-. The one and the only submission put forth by the petitioner is that, in the earlier arrangement, the working hours of a Watchman was only 8 hours. Whereas in the subsequent arrangement, the working hours have been increased to 12 hours. Therefore, the learned counsel for the petitioner would submit that there is no loss to the Society.



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8. However, the learned Government Advocate would invite the attention of this Court about Section 14 of the Tamil Nadu Shops and Establishment Act and would submit that, whenever any workman was directed to work beyond 8 hours, he must be given, over time salary, which is double to the existing wages. Therefore, contended that the nature of the agreement is contrary to the provision of Labour Legislation. This Court is in full agreement with the submission made by the learned Government Advocate. Thus, if the uncanny theory of the petitioner is accepted, it would run counter to the Labour Legislation. Therefore, this Court confirms the finding in respect of First charge.

9. Coming to the second charge, the same is for engagement of rental car. In this regard, the learned Government Advocate would submit that according to the Rule 32 of the Standing Orders, the Society has not permitted the President or Vice President to use a rental car. Therefore, this Court has no hesitation to confirm the quantum of a sum of Rs.5,605/- (Rupees Five Thousand Six Hundred and Five only) as the



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loss to society. In this regard, the Court below has gone into the various aspects and ultimately, confirmed the finding of the 87 proceedings. Even the petitioner could not submit any contra records.

10. Considering the third charge, qua the second publication of the pledged items, the learned counsel for the petitioner would submit that, only because of the defect in the earlier advertisement, the second advertisement was necessitated and therefore, it was only in the interest of the Society.

11. The learned Government Advocate would strongly object the said contention and contend that the second advertisement initiated by the petitioner only to bring the name of the Vice President, in the publication, which is not at all necessary. In this regard, the petitioner has not submitted any statutory record before this Court that the Vice President's name must be mentioned in the advertisement. Thus, this Court is of the view that the finding of the Court below that such second publication is contrary to the provisions of the Tamil Nadu Co-operative Societies Act, is liable to be confirmed.



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12. In view of the above detailed discussion, this Court is of the view that the petitioner has not put forth any new additional point or any new material so as to interfere with the well considered order of the Court below.

13. In the result, the instant Civil Revision Petition stands dismissed. There shall be no order as to cost. Consequently, connected Miscellaneous Petition is closed.

15.09.2023

NCC : Yes/No
Index : Yes/No
Ls

To

1.The District Munsif,
Palani.

2.The Section Officer,
VR Section, Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN.,J.

Ls

Order made in
C.R.P(MD)No.414 of 2018

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