



C.R.P(MD)No.1929 of 2017 etc., batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

**C.R.P(MD)Nos.1929,1930,1931,1932,1933,1934,1935,1936,1937,1938,
1939,1940,1941,1942,1943,1944,1945,1946,1947,1948,1949,1950,1951
and 1952 of 2017**

and

**C.M.P(MD)Nos.9918, 9919,9920,
9921,9922,9923,9924,9925,9926,9927,9928,9929,9930,9931,9932,9933,
9934,9935,9936,9937,9938,9939,9940 & 9941 of 2017**

C.R.P(MD)No.1929 of 2017

The Deputy Registrar of
Co-operative Societies,
Madurai Circle,
Now at No.41-42 Krishnarayar Tank Street,
(Old Ramnad District Central Coop.,
Bank Building)
Madurai-625 001. ...Petitioner

.VS.

S.Perumal ...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in C.M.A(CS)No.29 of 2008, dated 27.04.2017, on the file of the Co-operative Tribunal (Principal District Court), Madurai reversing the order passed by the Deputy Registrar of Co-operative Societies, Madurai in



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Surcharge proceedings No.10/2006-07 dated 30.05.2008 by allowing the Civil Revision Petition.

For Petitioner :Mr.A.Baskaran
Additional Government Pleader

For Respondents :Mr.S.Mohandass
in C.R.P(MD)Nos.1929 to 1932, 1935
to 1937,1939,1941 to 1943 & 1944/2017

:Mr.V.Karthikeyan
in C.R.P(MD)Nos.1933, 1938/2017

:Mr.D.Balamurugapandi
in C.R.P(MD)Nos.1934, 1947 & 1949/2017

:Mr.T.Ravichandran
in C.R.P(MD)Nos.1940, 1946, 1948 &
1950 of 2017

:Mr.K.Samidurai
for R1 to R3 in C.R.P(MD)No.1951 /2017

For Respondent :No appearance
in C.R.P(MD)No.1945 of 2017

COMMON ORDER

All these Civil Revision Petitions have been preferred by the Deputy Registrar of Co-operative Societies, Madurai Circle challenging the order of the Tribunal, dated 27.04.2017, in and by which, the Tribunal remanded the matter to the petitioner / The Deputy Registrar of



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Co-operative Societies, Madurai for fresh disposal with specific directions and also fixing a time period of six (6) months to conclude the proceedings.

2.The order of the Tribunal is challenged by the revision petitioner on the grounds that the Surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983 [hereinafter referred to as “The Act”] for the period from 1996 to 2002 was free from legal impediments; The Tribunal has failed to note that Section 87(1) of the Act contemplates only a 'Reasonable Opportunity' and the same cannot be extended to 'Unlimited Opportunity'; the order passed by the Tribunal is in violation of principles of natural justice; the Tribunal has failed to appreciate the decision of this Court in ***R.Nanjundan Vs.District Judge-cum-Tribunal for Co-operative Cases of the Nilgris District, Udhagamandalam and others*** reported in (2010) 4 MLJ, 1027; Despite sufficient opportunity, the respondents did not produce any evidence whatsoever and therefore, they did not deserve any indulgence.

3. The learned Additional Government Pleader appearing for the petitioner would contend that the Tribunal had erred in taking a



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sympathetic view which warrants interference under the provisions of the Tamil Nadu Co-operatives Act. The entire exercise was unnecessary as the respondents have not been able to satisfy the Tribunal or the authorities that they were not guilty of the charges and consequently, not liable to pay the surcharge amounts levied on them.

4. Per contra, the learned counsel for the respondents would contend that the Tribunal has rightly considered the appeal grounds filed by them and in order to render substantial justice, the Tribunal has remitted the matter to the respondent / petitioner with specific directions in the concluding paragraph-49 of the impugned order. The learned counsel for the respondents would therefore pray for dismissal of the revision petitions.

5. I have heard the learned counsel appearing for the revision petitioner as well as the learned counsel for the respondents in all these revisions and also perused the records, including the impugned common order of the Tribunal, dated 27.04.2017.



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6. It is not in dispute that the respondents in all these revision petitions were employees in Madurai Region Co-operative Bank holding various posts during the alleged period, in respect of which Surcharge proceedings were initiated. The respondents would contend that the proceedings were initiated after the lapse of time which is stipulated under Section 81(4) of the Act and challenged the report of the Enquiry Officer under Section 81 of the Act. It is seen from the records that the enquiry was ordered on 08.10.2001 and the report of the Enquiry Officer was filed on 01.10.2004. In the meantime, this Court has stayed the proceedings and the stay came to be vacated on 31.01.2004. The enquiry report shows that the alleged misappropriation amount was huge and that illegal sanction of loans have been made to 750 members and only on the basis of the said report, surcharge proceedings came to be initiated.

7. It is therefore contended by the learned counsel for the petitioner that the amounts involved are very huge, the proceedings cannot be indefinitely dragged on and unfortunately, the Tribunal has remanded the matter for fresh enquiry without any justifiable grounds.



8. However, on a perusal of the order of the Tribunal, I am able to see that the Tribunal has discussed the contentions raised by the revision petitioner and found that even though the amounts involved may be huge, the surcharge order was issued without even attaching the Enquiry Report and the statement of the Enquiry Officer and therefore, the respondents were deprived of an opportunity to peruse the documents and accordingly let in evidence. I do not find that the findings of the Tribunal are illegal or perverse. It is not a case where no opportunity was given to the respondents and also not as contended by the revision petitioner that it was a case of unlimited opportunity being given. The revision petitioner is unable to establish that along with the enquiry report, the proceedings have been served on the respondents to enable them to defend the charges levelled against them.

9. The learned counsel for the respondents also placed reliance on the decision of this Court in *S.Venkataraman vs. The Deputy Registrar of Co-operative Societies, Thanjavur and others*, reported in *1978(1) MLJ 284*, where, this Court has held that when statements have been obtained from various persons behind the back of the delinquent officer or the employee, the same cannot be relied on and if the liability is



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sought to be fastened on such delinquent officer on the basis of such statements obtained, then an opportunity to cross-examine should be given and when no such opportunity was afforded to the delinquent employee / officer, the proceedings were vitiated.

10. In the instant case, it is seen that the enquiry officer has placed reliance on the statements made by the independent witnesses, copies of which have not been provided to the respondents. Therefore, it is a fit case, where the matter has to be remitted back to the revision petitioner.

11. Therefore, I do not see any infirmity in the findings of the Tribunal remanding the matter to the petitioner / respondent for fresh consideration, in accordance with law. The specific directions given by the Tribunal holds good and the petitioner/ respondent, shall after affording a fair and reasonable opportunity to the respondents herein, pass final orders in accordance with law in terms of the directions issued by the Tribunal in the order, dated 27.04.2017.



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12. It is also made clear that if the petitioner is going to rely on the statement of independent witness, then such witnesses shall be allowed to be cross-examined by the respondents concerned, including cross-examination of the enquiry officer as well. The entire exercise shall be completed within a period of 10 months from the date of receipt of a copy of this order.

13. In fine, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Index: Yes/No
Internet: Yes/No
NCC: Yes/No
AM

17.11.2023

To
The Co-operative Tribunal,
(Principal District Court), Madurai.



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P.B.BALAJI,J.

am

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