



C.R.P.(MD) No.14 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	19.07.2023
Delivered on	27.09.2023

CORAM

THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

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and

C.M.P.(MD) No.66 of 2020

1.The Deputy Registrar of Cooperative Societies,
Office of the Institute of Cooperative
Management Complex,
Medical College Road,
Thanjavur.

2.The President,
T1704 Reddipalaiyam Primary Agricultural
Cooperative Credit Society,
Reddipalaiyam,
Thanjavur.

... Petitioners

Vs.

1.M.Mani Selvi

2.G.V.Manoharan

3.P.Ravichandran

4.G.Ramu

5.M.Manirasu



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6.N.Kaliyaperumal

7.M.Pushpalatha

8.B.Sangeetha

9.T.Shanmugasundaram

10.K.Nagaraj

11.K.Tamilpandiyan

12.M.Vairam

... Respondents

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Judgment and Decree passed in C.M.A. (C.S.) No.28 of 2016, dated 08.08.2017 on the file of the Principal District Court, Thanjavur reversing the surcharge order in R.C.No.12/2015 SF dated 20.01.2016 passed by the Deputy Registrar, Primary Agricultural Cooperative Credit Society, Thanjavur.

For Petitioners : Mr.G.Suriyananth
Additional Government Pleader

For Respondents : No appearance

ORDER

This Civil Revision Petition has been preferred by the petitioners as against the Judgment and Decree passed in C.M.A.(C.S.) No.28 of 2016, dated 08.08.2017 on the file of the Principal District Court, Thanjavur reversing the



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surcharge order in R.C.No.12/2015 SF dated 20.01.2016 passed by the Deputy Registrar, Primary Agricultural Cooperative Credit Society, Thanjavur.

2. According to the petitioners, the Trial Court has failed to consider the grounds of the surcharge proceedings and the first respondent who is wife of the deceased Secretary Mani is liable to pay the misappropriation amount as legal heir of the deceased Mani. It is submitted that as per the provisions of Section 87(1) of the Tamil Nadu Cooperative Societies Act, 1983, legal heirs can be included in the surcharge proceedings for the misappropriation committed by the deceased employees.

3. It is further submitted that the deceased Mani had purchased a site in the name of his wife namely, the first respondent herein who is now in enjoyment of the property and the Court below has failed to consider the above facts and also failed to consider the misappropriation committed by the deceased Mani during his service period and hence the petitioners prayed for setting aside the order passed by the Court below.

4. The defence of the first respondent before the Courts below was that the husband of the first respondent was officiating as the Secretary of the



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above Society and died due to the heart disease while he was in service and however he was not responsible for any misappropriation in the above Society.

It was further submitted that likewise, after the death of the said Mani, the first respondent/wife of the deceased Mani is not liable to pay any amount to the above Society and therefore, she filed C.M.A. (C.S.) No.28 of 2016 as against the surcharge order in R.C.No.12/2015 SF dated 20.01.2016 passed by the Deputy Registrar, Primary Agricultural Cooperative Credit Society, Thanjavur.

5. After considering the submission of the respective parties, the learned Principal District Judge, Thanjavur set aside the surcharge order in R.C.No. 12/2015 SF dated 20.01.2016 passed by the Deputy Registrar, Primary Agricultural Cooperative Credit Society, Thanjavur.

6. Heard and perused the records.

7. In the decision of the Jharkhand High Court in the case of **Neelam Dubey Vs. The State of Jharkhand and Others**, dated 10.03.2013 passed in W. P.(S) No. 3810 of 2002, it was held that the inquiry which was initiated against the deceased employee can be continued even after the death of the said



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employee and the show-cause notice issued to the son of the deceased employee is neither arbitrary nor illegal and it is permissible in law.

8. A reference was also made to the following decisions:-

- i. **State Bank of Mysore Vs. Smt. Saroja Srinivasan**, 1997 SCC OnLine Kar 415 : ILR 1997 Kar 2791
- ii. **Hira Bai Deshmukh Vs. State of Maharashtra**, 1986 Lab IC 248
- iii. **D.K. Savithramma Vs. Anantapur DCCB**, 1991 (11) LLJ AP 350

9. Therefore, in the case where the employee is alleged to have misappropriated the funds and before any surcharge order is passed, the said employee dies, the surcharge order can be passed against the legal heirs of the deceased employee. If it is found that any amount is due from the deceased employee, the employer can recover the same from the estate left by the deceased employee.

10. Hence, the impugned Judgment and Decree dated 08.08.2017 passed by the Principal District Court, Thanjavur in C.M.A.(C.S.) No.28 of 2016 is set aside. The surcharge order dated 20.01.2016 passed by the Deputy Registrar,



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Primary Agricultural Cooperative Credit Society, Thanjavur in R.C.No.

WEB C 12/2015 is confirmed.

11. Accordingly, this Civil Revision Petition is allowed. No cost.

Consequently, connected Miscellaneous Petition is closed.

27.09.2023

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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To
The Principal District Judge,
Thanjavur.



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K.GOVINDARAJAN THILAKAVADI, J.

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Pre-Delivery Order made in

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and C.M.P.(MD) No.66 of 2020

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