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C.R.P.No.263 of 2022
and C.M.P.No.1291 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.No.263 of 2022
and C.M.P.No.1291 of 2022

President,
Sathampakkam Primary Agricultural
Co-operative Credit Society Ltd.,
Sathampakkam (Post),
Wallaja Taluk – 632 513.

.. Petitioner

Vs.

1.K.Venkatraman

2.The Co-operative Sub Registrar/Surcharge Officer,
Formally Filed Officer, Wallaja,
Office of the Deputy Registrar of Co-operative
Societies,
Ranipet (Po) and (Tk),
Ranipet District.

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 24.04.2019 passed in C.T.A.No.20 of 2015 on the file of the Principal District Judge/Special



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Tribunal for Co-operative Cases, Vellore, whereby set aside the Surcharge Order No.Thi.Thi.1/2014-15 dated 10.08.2015 on the file of the Deputy Registrar of Co-operative Societies, Ranipet, Ranipet District and remitted back to the 1st respondent.

For Petitioner : Mr.L.P.Shanmugasundaram
For R1 : Mr.A.Praveen Kumar
For R2 : Mr.M.Murali
Government Advocate

ORDER

The challenge in the present Civil Revision Petition has been made against the order of the Special Tribunal for Co-operative Cases in setting aside the surcharge proceedings initiated against the 1st respondent.

2.The brief facts of the case are as follows:

2.1.The 1st respondent is the Secretary of the Petitioner's Society in the year 2007-2008. There was a sugarcane crop failure during the said year. Therefore, the members of the Society were given the benefit of crop insurance. The society received a sum of Rs.3,07,426/- as amount of



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insurance. While so, some of the members lodged a complaint that the 1st respondent had misappropriated the insurance amount. Based on the said complaint, the investigation has been conducted and surcharge proceedings has been initiated under Section 87 of the Tamil Nadu Co-operative Societies Act (hereinafter referred as 'the Act', whereby, the 1st respondent was directed to pay the amount of Rs.68,354/-, which was put into challenge before the Special Tribunal for Co-operative Cases.

2.2.The learned District Judge, set aside the surcharge order holding that specific charges had not been framed during the surcharge proceedings. The Enquiry Officer had pre-determined the issue without framing the charges as per statue and issued letter dated 17.06.2015, calling upon the 1st respondent to remit the alleged mis-appropriated amount of Rs.1,17,033/-. Further, it is also recorded that no opportunity was given to the 1st respondent to cross-examine the witness. Furthermore, the enquiry was extended beyond the period of six months without any explanation. Challenging the said findings, the present Civil Revision Petition has been filed.



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3.The learned counsel appearing for the petitioner submitted that the investigation has been conducted under Section 82 of the Act and it was found that the petitioner had mis-appropriate a sum of Rs.1,17,033/-, which was actually to be paid to the agriculturist. Based on that finding surcharge proceeding has been initiated. Hence, the order of the Tribunal is not proper and he prayed to set aside the order passed in C.T.A.No.24.04.2019 by the Special Tribunal for Co-operative Cases.

4.Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the 1st respondent as well as Mr.M.Murali, learned Government Advocate appearing for the 2nd respondent and perused the materials on record.

5.Upon hearing, this Court is of the view that to initiate proceedings under Section 87 of the Act, there must be specific finding under Section 82 of the Act with regard to the mis-appropriation or fraudulent act of the person concerned, which resulted in deficiency in the assets of the society. However, the very proceeding indicate that the insurance amount has been



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disbursed and the same was repaid by the members and also fresh loan had been provided to the members of the society. As there was no details found with regard to the fraudulent activity of the Secretary which cause deficiency in the assets of the society, merely on the basis of investigation conducted under Section 82 of the Act, the proceedings under Section 87 of the Act cannot be initiated. Further, for conducting enquiry under Section 87 of the Act and passing any orders, proper charges have to be framed and necessary opportunity should be given to cross examine the witnesses. Though three witnesses were examined, the 1st respondent was not given opportunity to cross examine them. That apart, even before recording the findings, the Enquiry Officer had sent the letter dated 17.06.2015, calling upon the 1st respondent to pay the amount of Rs.1,17,033/-, which clearly shows that he pre-determined the issue. After issuing the letter calling upon the 1st respondent to pay that the amount, he has recorded his finding on 10.08.2015, which goes against the fundamental principle. Hence, this Court does not find any merits in the present case.



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6. Accordingly, the Civil Revision Petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

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rst

Index : Yes/No

Internet: Yes/No

Speaking/Non-Speaking Order

To:

The Principal District Judge,
Kancheepuram at Chengalpattu.



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N.SATHISH KUMAR, J.

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