



W.A.No.1915 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2024

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CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.1915 of 2021
and
CMP.No.12415 of 2021

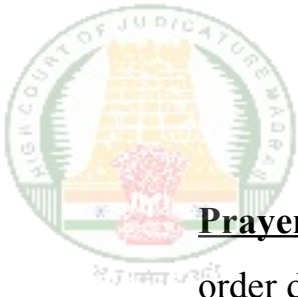
A.Logambal

... Appellant

Vs.

1. The Presiding Officer,
Co-operative Tribunal,
(Principal District Judge),
Coimbatore.
2. The Deputy Registrar,
Office of the Deputy Registrar of Co-operative Societies,
Chinthamani, North Coimbatore,
Coimbatore - 641 002.
3. The Special Officer,
K-1611, Kovai Murugan Mills Labourers Cooperative
Credit Society,
Coimbatore - 641 043.

... Respondents



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Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 21.12.2017 passed in W.P.No.16309 of 2013.

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For Appellant : Mr.G.Karthikeyan
Senior Counsel
for Mr.M.Saravanakumar

For R1 : Tribunal

For R2 : Mr.G.Krishnaraja
Additional Government Pleader (Co-op)

For R3 : Ms.Amirtha Poonkodi Dinakaran
Government Advocate

J U D G M E N T

(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

The surcharge proceedings initiated under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983 is the subject matter in the present writ appeal.

2. The appellant was holding the post of Secretary in K-1611, Kovai Murugan Mills Labourers Cooperative Credit Society at Coimbatore.

3. The factual adjudication between the parties came to be



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concluded and affirmed by three firms namely, the Deputy Registrar of Co-operative Societies under the Act, the learned Principal District Judge under Section 152 of the Act and before the High Court in a writ proceedings. Therefore, the scope of reappreciation of facts are undoubtedly limited in the present intra-court appeal.

4. Mr.G.Karthikeyan, learned Senior Counsel appearing on behalf of the appellant would mainly contend that the forums where adjudication completed failed to consider that the appellant had paid money to Rukmani Gas Agency and produced the receipt for payment. Therefore, there is no financial loss to the Society. It is contended that the statutory enquiry had not been completed within the time limit stipulated under the Tamil Nadu Cooperative Societies Act. Thirdly, no action has been taken against the other Officials involved in the same transactions. The Secretary has only prepared the documents and it was signed by the other Authorities.

5. The learned Principal District Judge in Section 152 proceedings



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considered all these grounds elaborately. The appellant before all the Forums contended that the LPG Gas Connection at the cost of Rs.1,44,900/- has been provided to 18 members. Subsequently, 31 gas connections were given to the members at the cost of Rs.2,48,559/-. The gas connections were given through M/s.Rukmani Agencies under Takkal scheme. All the amount payable were given to Rukmani Agencies and its sister concern M/s.Supreme Associates. The said contention was elaborately considered even before the learned Principal District Judge and there is a clear finding by the learned Principal District Judge is as follows:

"12., assuming without admitting that (end of the 6th page in the original) M/s-Rukmani Agencies requested to make the payment in the name of M/s Supreme Associates, the society ought not to have accepted the said request and issued the cheques in the name of M/s Supreme Associates. There is also no record to show that M/s.Rukmani Agencies requested the society to make the payment to M/s Supreme Associates. The letter dated 26.06.2007 from M/s.Hindustan Petroleum Corporation Ltd., would clearly establish that only 18 gas connection were released under Tatkal scheme and the remaining 31 connections were released under normal deposit scheme. I find no valid reason to ignore this material. Therefore, the contention of the appellants



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that Rs.3,94,450.00 was payable to Rukmani Agencies and it has been paid to M/s.Rukmani Agencies has to be rejected.

13. According to the society, a sum of Rs.2,00,000/- was payable to Rukmani Agencies for supply of gas connections and fitting changes. It is significant to note cheque for the remaining amount of Rs.1,94,450/- has been paid to M/s.Supreme Associates without any basis. Therefore it is clear that the deficiency of Rs.1,94,450/- has been caused to the assets of the society. According to the society (2nd respondent) the appellants along with two others were responsible for the above said loss suffered by the society."

6. As far as the time limit contemplated under the Act and Rules are concerned, the Division Bench of this Court in the case of ***S.V.K.Sahasramam Vs. Deputy Registrar of Coperative Societies*** reported in ***2008 (8) MLJ 231*** held that it is a directory and not mandatory. Therefore, belated completion of statutory enquiry proceedings would not vitiate the proceedings by itself. The Apex Court also had taken similar views in other cases. Therefore, we are unable to agree that the proceedings are to be set aside based on the ground that the Authorities have not concluded the enquiry within the time limit contemplated.



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7. As far as the accountability of other Officials are concerned, the same has been elaborately considered by the Deputy Registrar and the learned Principal District Judge in their findings. When the findings are based on evidence and the said findings are confirmed by the Writ Court, we do not find any further grounds to review the factual findings made by all the three forums. Re-appreciation of evidences by the writ appellate court is unnecessary. Therefore, we are not inclined to interfere. Consequently, the Writ Appeal stands **dismissed**. No costs. Connected miscellaneous petition is closed.

[S.M.S., J.] [C.K., J.]
08.07.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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