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C.R.P.No.1989 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P.No.1989 of 2015 and
M.P.No.1 of 2015

K.Indurani

... Petitioner

Vs.

1.The Deputy Registrar,
O/o. Omalur Division of Deputy Registrar,
Omalar Taluk,
Salem District.

2.S-8541, Thathampatti Primary
Agricultural Co-operative Bank,
Chikkanampatti Village and Post,
Omalar Taluk, Salem District.

3.G.Subramani (Former President)
4.R.Natarajan (Former Secretary)
5.R.Vanithamani (Former Senior Writer)

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the decree and judgment dated 30.06.2014 made in C.M.A (C.S) No.4 of 2009, on the file of the Principal District Court (Co-operative Tribunal), Salem by confirming the order dated 12.11.2008 made in Na.Ka.No.4666/2005/Sa.Pa., on the file of the first respondent.

For Petitioner : Mr.C.Prabakaran



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For Respondents : Dr.S.Suriya, AGP for R1
Mrs.P.Vijaya Devi, GA for R2 to R5

ORDER

This Civil Revision Petition has been preferred to set aside the decree and judgment dated 30.06.2014 made in C.M.A (C.S) No.4 of 2009, on the file of the Principal District Court (Co-operative Tribunal), Salem by confirming the order dated 12.11.2008 made in Na.Ka.No.4666/2005/Sa.Pa., on the file of the first respondent.

2. Heard Mr.C.Prabakaran, learned counsel for the petitioner and Dr.S.Suriya, learned Additional Government Pleader for the first respondent and Mrs.P.Vijaya Devi, learned Government Advocate for the respondents 2 to 5 and perused the materials available on record.

3. The petitioner has filed a Civil Miscellaneous Appeal in C.M.A (C.S) No.4 of 2009 challenging the surcharge proceedings of the Deputy Registrar, Co-operative Societies, Omalur dated 12.11.2008 under Section 87 of the Tamil Nadu Co-operative Societies Act. The allegation against the petitioner is that the petitioner along with the Senior Head Clerk, Secretary and President of the Societies, had misappropriated a sum of



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Rs.27,70,198/- in respect of 167 jewel loan by playing fraud upon the Bank. It is alleged that without getting the loan amount re-paid for the jewel loan, the jewels have been returned and records have been manipulated by making false entries in the Register by the petitioner and others by entering into conspiracy between themselves. On the allegation of creating loss to the Society, Section 87 proceedings have been initiated against the petitioner. On the conclusion of the said proceedings, it is held that the petitioner was also jointly liable for the loss. The petitioner challenged the same by way of preferring a Civil Miscellaneous Appeal before the Principal District Judge in CMA.(C.S) No.4 of 2009 and the same was also dismissed on 30.06.2014 by confirming the order passed under Section 87 proceedings dated 12.11.2008.

4. The learned counsel for the petitioner submitted that the petitioner was acting under the supervision and direction of the President and the Secretary and she did not have any authority to make individual decisions. It is further submitted that when the Secretary, Cashier and the Senior Clerk verified the accounts each and every time and made a counter signature in the same, the petitioner cannot be held liable for the



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loss. The petitioner did not have any intention to misappropriate any money and she is not a beneficiary from such illegal gains.

5. The learned Additional Government Pleader for the first respondent submitted that it was the petitioner who was in-charge of the accounts pertaining to the gold loan at the relevant point of time. Unless the papers are manipulated from the level of the petitioner, the fraud would not have occurred.

6. The fact that the petitioner was working in the said branch in the very much point of time was not denied. The petitioner acted on the direction of the superiors viz., the President and Secretary. Even though the whole of the Bank is under the control of the President, the functions of the Bank are being carried out only by various staff members who are handling different sections of the Bank. So far as this petitioner is concerned, she was working as a Clerk in the jewel loan section and she has to cause the papers ready for jewel loan first and thereafter only, it will get the signatures of all other members. So the petitioner could have very much been aware of the fact that she is causing the papers even



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without receiving the jewels.

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7. The records which is in the custody of the petitioner cannot be manipulated by others without the active participation of the petitioner. The criminal proceedings have also been initiated against the petitioner and others on the very same allegations. As the *prima facie* materials have been available to bind the petitioner in the alleged scam and in fact, she was handling the seat during the relevant point of time, the learned Principal District Judge has arrived at a conclusion that the surcharge proceedings initiated against the petitioner and others is legally sustainable.

8. Some fraudulent entries have been made in the jewel loan Register as though the loan amount availed by the members of the Bank had been re-paid. The petitioner is said to have taken the said amount for her personal gain. Since the investigation in respect of the criminal case is pending and the fact that the petitioner was working in the same section during the relevant point of time, the Principal District Judge has re-evaluated the materials placed before the Deputy Registrar of Co-



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operative Societies during the surcharge proceedings and had chosen to confirm the same. As the orders have been passed by the learned Principal District Judge only after making a proper reappraisal of the merits of the matter, especially, by considering the fact that the petitioner was very much in charge of the relevant seat, I feel no factual or legal infirmity in the order of the Principal District Judge which might invite an interference.

9. In view of the above stated reasons, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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To

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