



W.A. No.1489 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM :

THE HON'BLE MR.R.MAHADEVAN, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A. No.1489 of 2024 and C.M.P. No.10565 of 2024

The Administrator
S.1394 Kurumbalamahadevi Primary
Agricultural Cooperative Credit Society Ltd.
Kurumbalamahadevi & Post
P. Velur Taluk
Namakkal District

Appellant

(Cause title accepted *vide* order dated
21.03.2024 made in C.M.P. No.6718 of 2024
in W.A. SR. No.23235 of 2024)

v

- 1 C. Ramalingam
- 2 R. Ramasamy
- 3 N. Chinnappan
- 4 The Joint Registrar of Cooperative Societies
Namakkal Region
Namakkal



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The Deputy Registrar of Cooperative Societies
Thiruchengode Circle
Thiruchengode
Namakkal District

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent
challenging the order dated 10.10.2023 passed in W.P. No.13663 of
2020.

For appellant Mr. R. Balaramesh

For RR 1 to 3 Mr. M.S. Palaniswamy

For RR 4 & 5 Mr. Abishek Murthy
Government Advocate

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

Surcharge proceedings were initiated against the respondents
1 to 3 for the alleged wrong fixation of scale of pay and
disbursement of arrears of salary to the employees of the appellant
society, in which, *vide* award dated 30.08.2004 passed by the fifth
respondent, it was ordered that the loss caused by them to the
appellant society can be recovered from them, subject to the
outcome of the writ petitions being W.P.Nos.17972 to 17974 of



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2004 filed by them.

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2. Subsequently, the respondents 1 to 3 retired from the services of the appellant society as Secretary, Secretary (I/c) and Assistant Secretary, respectively, on 31.10.2010, 31.10.2011 and 31.03.2010 respectively. However, their terminal benefits were withheld on the ground that the issue with regard to surcharge proceedings initiated against them is under consideration in W.P. Nos.17972 to 17974 of 2004.

3. W.P. Nos.17972 to 17974 of 2004 were disposed of *vide* order dated 19.08.2019 by permitting the respondents 1 to 3 to submit fresh representations.

4. While so, since their terminal benefits were not settled, the respondents 1 to 3 preferred W.P. Nos.30744, 30748 and 30749 of 2019 seeking a direction for settlement of their retirement benefits, which, by order dated 01.11.2019, were disposed of with liberty to the appellant society to recover the surcharge amount in the manner known to law and thereafter, settle the eligible terminal



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benefits to the respondents 1 to 3.

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5. Since the respondents 1 to 3 were not paid their retirement benefits albeit the order dated 01.11.2019 passed in W.P. Nos.30744, 30748 and 30749 of 2019, they preferred W.P.No.13663 of 2020 challenging the award dated 30.08.2004 passed by the fifth respondent in the surcharge proceedings, mainly on the following grounds:

- i. the award dated 30.08.2004 has become time barred and hence, unenforceable;
- ii. no disciplinary proceedings were initiated against them on the allegation of mismanagement or misappropriation, thereby, causing loss to the appellant society; and
- iii. even in the event of any loss being caused to the appellant society, surcharge proceedings cannot be initiated against them, unless there is any wilful negligence, misappropriation or mismanagement on their part.



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6. The learned Judge, *vide* order dated 10.10.2023, observing that it was stated nowhere that the respondents 1 to 3 were involved in the act of mismanagement or misappropriation, and relying on the Division Bench judgment of this Court in **S.Ramadevi v The Special Officer, Ambur, Cooperative Sugar Mills, Vellore District [2016 (4) LW 452]**, wherein, it was held that surcharge proceedings cannot be initiated against the employees even in the event of loss being caused to the society, unless there is wilful negligence on their part or they had voluntarily involved in misappropriation or mismanagement, held that the fifth respondent ought not to have invoked Section 87(1) of the Tamil Nadu Cooperative Societies Act and initiated surcharge proceedings against the respondents 1 to 3. Eventually, the learned Judge quashed the surcharge award and allowed the writ petition with a direction to the appellant society to settle the terminal benefits of the respondents 1 to 3.

7. The said order of the learned Judge is put to challenge in this writ appeal.



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8. Heard the learned counsel for the parties and perused the materials available on record.

9. Concededly, surcharge proceedings were initiated against the respondents 1 to 3 only on the ground of wrong fixation of scale of pay and disbursement of arrears of salary to the employees of the appellant society. Neither before the learned Judge nor before this Court, was it demonstrated that the respondents 1 to 3 had indulged in misappropriation or mismanagement and that there was wilful negligence on their part.

10. In view of the above summation of facts and discussion, we cannot hold that the learned Judge was wrong in relying upon the Division Bench judgment of this Court in **S. Ramadevi**, *supra*. Rather, we are of the view that the learned Judge appreciated the available materials in their proper perspective and came to a just conclusion, as adverted to in paragraph 6, *supra*, and hence, the order impugned cannot be interfered with.



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11. While concluding his submissions, the learned counsel for the appellant society sought some time for complying with the order of the learned Judge.

12. Acceding to the request made by the learned counsel for the appellant society, eight weeks' time from the date of receipt of a copy of this judgment is granted to the appellant society to comply with the order passed by the learned Judge.

In fine, this writ appeal stands dismissed, however, sans costs.
Connected C.M.P. stands closed.

(R.M.D., A.C.J.) (M.S.Q., J.)
03.07.2024

Index : Yes/No
NC : Yes/No
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