



WEB COPY

W.P.No.10449 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.10449 of 2024
and W.M.P.No.11444 of 2024

V.L.202, Mariyanallur Primary
Agricultural Cooperative Thrift Society Limited,
Rep. By Its Administrator,
K.Murugasen

... Petitioner

-Vs-

1. Nagappan
2. The Deputy Registrar of
Co-operative Societies,
Cheyyar.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the order of the Cooperative Tribunal Cum Principal District Judge, Tiruvannamalai passed in Civil Miscellaneous Appeal No.1 of 2020 dated 17.10.2023 and quash the same as illegal, arbitrary unsustainable in law or on facts.

For Petitioner	: Mr.J.Kamaraj
For R1	: Mr.L.Chandra Kumar
For R2	: Mr.P.Ganesan
	Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed in Civil Miscellaneous Appeal No.1 of 2020 dated 17.10.2023, on the file of the



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Cooperative Tribunal Cum Principal District Judge, Tiruvannamalai, thereby allowed the appeal and set aside the surcharge proceedings.

2. Heard both sides and perused the materials available on record.

3. The first respondent was the Secretary of the petitioner Society for the period from 12.04.2008 to 31.12.2013. There was loss to the petitioner Society due to wrong collection of the loan amount on the jewel loans. Therefore, the second respondent ordered for enquiry under Section 82 of the Tamil Nadu Co-operative Societies Act (hereinafter called as “the Act”). On the strength of the enquiry report, the second respondent initiated surcharge proceedings under Section 87 of the Act. In the surcharge proceedings, it was directed to recover a sum of Rs.26,06,151/- from the first respondent as well as three others who were working as President, Secretary and Clerk of the petitioner Society. Aggrieved by the same, the first respondent preferred an appeal before the Co-operative Tribunal cum Principal District Judge, Tiruvannamalai in C.M.A.No.1 of 2022 and the same was allowed by an order dated 17.10.2023. Hence, this writ petition.

4. The learned counsel for the petitioner would submit that the Tribunal



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ought to have considered that the first respondent was in service from 12.04.2008 and retired on 31.12.2012. The period of component is from 12.07.2012 to 28.12.2012 which is within his period of service. Admittedly, the first respondent had lent jewel loan to various members. Thereafter, the first respondent failed to take steps to collect the jewel loan from the loanees. Further, the jewel loans were not renewed or redeemed and as such, the responsibility of the first respondent is to take appropriate action as against the loanees.

5. A perusal of records and on the submissions made by the learned counsel for the respondents revealed that during the service of the first respondent, there were 34 jewel loan which were disbursed from 12.07.2012 to 28.12.2012. The date of commencement of recovery of jewel loan from the defaulters commenced only from 01.04.2013 and in addition to that there were three months grace period to the defaulters of the loan prior to bringing the jewels for auction as per the Rule. The further stand of the petitioner before the Tribunal was that the loan disbursed by the first respondent during 12.07.2012 to 28.12.2012, the due falls one year later from the date of the loan. Since the first respondent was relieved from the service of the petitioner, it was not possible for him to recover his loan from the defaulters concerned through the



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official auction. The charge itself is against the petitioner and failed to collect the loan amount from the loanees.

6. In view of the above, the Tribunal had rightly set aside the surcharge proceedings as against the first respondent and this Court finds no infirmity or illegality in the order passed by the second respondent and the writ petition is devoid of merits and is liable to be dismissed.

7. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

05.09.2024

Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
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To

The Deputy Registrar of
Co-operative Societies,
Cheyyar.



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G.K.ILANTHIRAIYAN. J.

mn

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