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W.A.No.325 of 2016 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

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THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.A.Nos.325 to 338 of 2016, 536 of 2020, 1327 of 2015
and
WP.Nos.2028 of 2010, 5474 of 2016, 5815 of 2016,
11120 of 2016 & 29750 of 2010

WA.No.325 of 2016

1. The Deputy Registrar of Co-operative Societies,
Tindivanam Circle,
Tindivanam, Villupuram District.
2. The Special Officer (now the President),
CL.SPL.154, Brammadesam Primary
Agricultural Co-Operative Bank,
Brammadesam & Post,
Tindivanam Taluk, Villupuram District.

... Appellants

Vs.

1. P.Veeran
2. The Presiding Officer,
Co-Operative Tribunal
Principal District Court,
Villupuram.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set



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aside the order of the learned Judge made in WP.No.10 of 2010 dated 24.07.2014.

For Appellants : Mr.S.Ravikumar
Special Government Pleader (Co-Op)

For Respondents : Mrs.Hemalatha
for Mr.C.Prakasam for R1

COMMON JUDGMENT

[Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**]

The common facts involved in the Writ Appeals and the Writ Petitions are that surcharge proceedings are initiated against the employees of the Primary Co-operative Banks and the employees of the Central Co-operative Bank. A show cause notice under sub-section (1) to Section 87 of Tamil Nadu Co-operative Societies Act, 1983 was issued calling upon explanation from the employees regarding the financial loss occurred to the Co-operative Societies. On receipt of explanations, the Deputy Registrar of Co-operative Society/Competent Authority conducted an enquiry and passed final surcharge orders under Section 87 of the Act. The said order issued under Section 87 came to be challenged by way of an appeal under Section 152 of the Act before the Special Tribunal for Cooperative Societies/learned



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Principal District Judge. The Appellate Court allowed few cases and in other cases, the surcharge orders are confirmed. Challenging the said orders, writ petitions came to be instituted. The writ petitions are tagged with the present Writ Appeals. In writ Appeals, we have examined the order passed by the Writ Court. We could able to trace out the fact that in certain cases, the surcharge orders are passed in respect of the employees, who were not serving in the Society during the relevant point of time. For instance, the orders passed in WP.No.10214 of 2010 dated 24.07.2014 would reveal that the Deputy Registrar fastened the liability on all the employees for the financial irregularities, malpractices and misappropriation of funds. However, few employees had not even entered the services of the Cooperative Society during the relevant period. The arguments on behalf of the employees that no specific duties and responsibilities were assigned to the employees cannot be taken into consideration by this Court, since the financial irregularities in large scale are noticed. The learned Special Government Pleader would submit that the financial loss caused to the Society is to the tune of about Rs.4.00 crores. In such circumstances, the Deputy Registrar of Cooperative Societies is bound to ascertain the participation of the individual employees and fix liability accordingly. There cannot be any common



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fixation of liability, since few employees had not even entered the services of the Cooperative Societies.

2. The reason given by the writ Court on merits are not in consonance with the established principles. Such complex nature of disputed facts require concrete adjudication with reference to original documents. In the present case, though adjudications were done based on the original documents, the findings made commonly would reveal that few employees, who had not even entered into service were fastened with liability, which resulted in allowing of the writ petitions.

3. The learned Special Government Pleader would submit that the recovery actions are initiated and some amount of recovery has already been made. On account of interim orders passed in the writ appeals and in writ petitions, further proceedings are kept in abeyance.

4. In view of the fact that the contradictory facts are placed before this Court with reference to writ appeals and writ petitions, it would be preferable to remand the matters to the Deputy Registrar enabling him to consider the



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facts based on the services of the employees and fix liability accordingly to recover the financial loss occurred to the Cooperative Societies.

5. The learned Special Government Pleader would submit that the financial loss assessed is about Rs.4.00 crores. Liability is to be fixed based on the involvement of the individual employees, for financial loss to the Cooperative Societies.

6. For the above reasons, we are inclined to remand the matter to the Deputy Registrar concerned for passing fresh orders under Section 87 of the Act by fixing the liability based on the services rendered by the employees during the relevant point of time, when the financial irregularities occurred.

7. Accordingly, the impugned orders in writ appeals and in writ petitions are set aside and the cases are remanded back to the Deputy Registrar of Cooperative Societies. The Deputy Registrar of Cooperative Societies shall ascertain the facts regarding the services of the employees and fix liability based on their involvement in the financial irregularities and pass orders by affording opportunity to all those employees/members of the



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society. The said exercise is directed to be completed within a period of four(4) months from the date of receipt of a copy of this order. The employees/members of the society against whom surcharge orders are passed are at liberty to submit their further explanations/statement of defence along with the documents, if any to the Deputy Registrar of Cooperative Societies, which all are to be considered while fixing the liability on the employees/members of Cooperative Societies.

8. With the above observations, all the writ appeals and the writ petitions are disposed of. No costs.

[S.M.S., J.] [C.K., J.]
10.07.2024

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Index : Yes

Speaking order : Yes

Neutral Citation : Yes

To
The Presiding Officer,
Co-Operative Tribunal
Principal District Court,
Villupuram.



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