



WEB COPY



C.R.P.(PD).No.2037 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2037 of 2021
and CMP.No.15453 of 2021

M.Sampath

... Petitioner

vs.

1.The Deputy Registrar,
Tamil Nadu Co-operative Societies,
Dharmapuri Region, Dharmapuri District.

2.The Special Officer,
K.K.156, Sungara Hally Primary Agricultural
Co-operative Bank Limited,
Sungarahally, Sillarahalli Post,
Dharmapuri District.

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the judgment and decree made in C.M.A (CS).No.2 of 2012 passed by the Principal District Judge, Tamil Nadu Co-operative Societies Tribunal, Dharmapuri, confirming the award made in Na.Ka.No.11783/2003/Sa.Pa.2, dated 12.08.2011 passed by the Deputy Registrar, Co-operative Societies, Dharmapuri is illegal, unsound and liable to be set aside.



C.R.P.(PD).No.2037 of 2021

For Petitioners : Mr.G.Ehirajulu
For Respondents : Mr.V.Jeeva giridharan
Additional Government Pleader

ORDER

The Civil Revision Petition is filed challenging the order passed by the Co-operative Tribunal dismissing the appeal filed by the petitioner challenging the surcharge order passed against him.

2. The petitioner herein was employed as a Secretary in the 2nd respondent/Co-operative Society. According to the 1st respondent, the petitioner acted against the by-laws of the Society and caused loss to the Society to the tune of Rs.13,90,671.09/-. The same was found out in 81 enquiry ordered in respect of affairs of the 2nd respondent-Society on 19.03.2001. Thereafter, the Surcharge Proceedings were initiated against the petitioner and others under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. On receipt of the notice in 87 enquiry, the petitioner



C.R.P.(PD).No.2037 of 2021

relied on in 81 enquiry for coming to the conclusion regarding the loss caused to the Society. Thereafter, the 87 enquiry notice was issued to the petitioner on 11.07.2011 directing him to appear for enquiry on 20.07.2011. It is stated that the petitioner could not attend the enquiry on 20.07.2011. Again, another notice was issued to the petitioner on 21.07.2011 calling upon him to appear for enquiry on 28.07.2011.

5. It is the specific case of the petitioner that notice dated 21.07.2011 was received by him only on 30.07.2011 and therefore, he could not attend the enquiry. However, a perusal of the acknowledgement card for the notice dated 21.07.2011 would indicate that the petitioner received notice on 24.07.2011 though the petitioner at the time of putting his signature mentioned the date as 24.11.2011.

6. Having regard to the date of notice, it could only be 24.07.2011. Further, a perusal of postal seal available in the acknowledgement card also would indicate that the petitioner received the enquiry notice on 24.07.2011. Therefore, in spite of two notices dated



11.07.2011 and 21.07.2011, the petitioner failed to appear before the Enquiry Officer and therefore, he is not entitled to complain that he was not afforded with opportunity to peruse the documents or furnished with copies of original documents relied on in 81 enquiry.

7. The learned counsel appearing for the petitioner submitted that Rule 104(6) (a) and 104(6) (b) of Tamil Nadu Co-operative Societies Rules 1988, have not been complied with by the first respondent.

8. A perusal of the original records would suggest that the petitioner and members of the Board, who were in-charge of the affairs of the society during the periods from 31.10.1996 to 30.03.2001 caused loss to the tune of Rs.13,90,671.09/- at the relevant point of time under the following heads:

1. Consumer loan to members of the society;
2. Consumer loan to employees of society;
3. Dispersal of loan without stocks;
4. Misappropriation by making wrong entry in the ledger;



C.R.P.(PD).No.2037 of 2021

WEB COPY

5. Failure to remit amount received by sale of fertilizer;
6. Loss due to expiry of pesticide;
7. Failure to remit amount received through sale of fertilizers;
8. Loss due to shortage of fertilizers;
9. Failure to remit amount received through sale of *Vathal Malai*;
10. Failure to make entry in the ledger regarding receipts under the head of jewel loan;
11. Availing travelling allowance without proper documents;
12. Payment of Advocate fees for non official work;
13. Procurement of registers from private concerns;
14. Fixation of salary and payment of arrears of salary without sanction from concerned authorities;
15. Expenses under the head rental charges for Taxi;
16. Withdrawal of amount from saving account of the Secretary without proper sanction.

9. The loss to the Society under the above said heads were caused due to falsification of accounts, failure to make necessary entry in the



C.R.P.(PD).No.2037 of 2021

account, violation of the rules and bye-laws etc. The copies of the document

relied on by the Officer are enclosed along with 81 enquiry report. Therefore, the submission made by the learned counsel for the petitioner that adverse order has been passed against the petitioner without perusing relevant documents ledger etc., is not acceptable to this Court. As mentioned earlier, in spite of several notices, the petitioner failed to appear for enquiry and avail the opportunity afforded to him to peruse the documents relied on against him. In such circumstances, the petitioner is not entitled to raise the point of violation of natural justice principles and non-consideration of material documents etc., at this belated stage.

10. In such circumstances, I do not find any reason to interfere with the conclusion reached by the Co-operative Tribunal.

11. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2024

Index : Yes / No



C.R.P.(PD).No.2037 of 2021

Speaking order : Yes / No

Neutral Citation : Yes / No

ub

WEB COPY

S.SOUNTHAR, J.

ub

To

1.The Deputy Registrar,
Tamil Nadu Co-operative Societies,
Dharmapuri Region, Dharmapuri District.

2.The Special Officer,
K.K.156, Sungara Hally Primary Agricultural
Co-operative Bank Limited,
Sungarahally, Sillarahalli Post,
Dharmapuri District.

C.R.P.(PD).No.2037 of 2021



WEB COPY



C.R.P.(PD).No.2037 of 2021

07.03.2024