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C.R.P.No.1790 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P.No.1790 of 2023

- 1.K.C.Subramaniyan
- 2.N.Anbalagan
- 3.V.Madesh
- 4.T.Sivaraj
- 5.N.Chinnasami
- 6.V.Mageswari
- 7.R.Lalitha

... Petitioners

Vs.

- 1.The Deputy Registrar,
Co-op. Societies,
Dharmapuri.
- 2.The Special Officer,
D.D.176, Anandhoor Primary Agricultural
Co-operative Bank,
Anandhoor, Krishnagiri District.

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed by the Principal District Judge, Krishnagiri in CMA (Co-op. Societies) No.16 of 2004 dated 29.07.2011 confirming the surcharge order No.Na.Ka.No.6474/02/Sa.Pa.2 dated 16.09.2003 passed by the first



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respondent.

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For Petitioners : Mr.B.Nedunchezhiyan for
Mr.G.Sankaran
For Respondents : Mr.V.Ramesh, GA

ORDER

This Civil Revision Petition has been preferred to set aside the order passed by the Principal District Judge, Krishnagiri in CMA (Co-op. Societies) No.16 of 2004 dated 29.07.2011 confirming the surcharge order No.Na.Ka.No.6474/02/Sa.Pa.2 dated 16.09.2003 passed by the first respondent.

2. Heard Mr.B.Nedunchezhiyan, learned counsel for the petitioners and Mr.V.Ramesh, learned Government Advocate for the respondents and perused the materials available on record.

3. The learned counsel for the petitioners submitted that as per the surcharge order, the third parties in whose favour the promotion was given, have remitted the loss determined by the proceedings and now, the respondent Society is claiming interest against the petitioners. In fact, the



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surcharge proceedings have been initiated by the first respondent on the allegation that the first petitioner/ President has given promotion to various persons and thereby, caused loss to the Society. For some reasons known to the persons who have enjoyed promotion have come forward and paid the surcharge amount as assessed by the first respondent.

4. Even in the appeal filed before the Principal District Court, the Principal District Judge has observed that the petitioners are in-charge of the affairs of the Society and they are liable to make good the loss caused to the Society due to wrongful promotion. Now, the petitioners make a claim that the first respondent can claim interest only from the persons in whose favour the promotion was given by the first petitioner. But the persons who have remitted the surcharge amount are not the parties to the surcharge proceedings and neither the order as to 18% interest has been passed against the third parties. But, it has been passed only against the petitioners by the first respondent *vide* order dated 16.09.2003.

5. When the petitioners have challenged the above proceedings by



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way of preferring a Civil Miscellaneous Appeal before the District Court in C.M.A.No.16 of 2004, the same was dismissed. When the order of the appropriate authority dated 16.09.2003 is very much in force and it also makes reference about 18% interest on delay in remittance, the petitioners cannot re-direct the interest against the third parties who have come forward to pay the surcharge amount. Since the interest has been fixed at 18% per annum, which is very huge, I feel some consideration can be shown on the rate of interest alone by modifying the rate of interest from 18% to 10%.

6. In the result, this Civil Revision Petition is disposed and the rate of interest of 18% as fixed by the first respondent *vide* order dated 16.09.2003 and as confirmed by the learned Principal District Judge in C.M.A.No.16 of 2004 by an order dated 29.07.2011 is modified to 10%. The other aspects of the order passed by the first respondent *vide* proceedings in Na.Ka.No.6474/02/Sa/Pa.2 dated 16.09.2003 remains the same. No costs.

Index : Yes /No
Speaking / Non-speaking

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Neutral Citation : Yes / No
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To

- 1.The Deputy Registrar,
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Dharmapuri.
- 2.The Special Officer,
D.D.176, Anandhoor Primary Agricultural
Co-operative Bank,
Anandhoor, Krishnagiri District.



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R.N.MANJULA, J.

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