



C.R.P.(PD).No.2528 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2528 of 2021
and CMP.No.18962 of 2021

S.Subramanian

... Petitioner

vs.

1.The Deputy Registrar of Co-operative Societies (Housing),
O/o.The Deputy Registrar of Co-operative Societies (Housing),
Salem Region, Door No.53,
East Garden Street, Opp. To Saradha Girls Hr. Sec. School,
Fairlands, Salem – 636 016.

2.The Secretary, S1523,
Dr.Ambedkar Salem City Co-operative
Housing Building Society Ltd., D.No.09, Paul Pillai Street,
Fort, Salem – 636 001.
Salem Town and District.

3.The Secretary to Government,
Housing and Urban Development Department,
Fort, Chennai – 600 009.

4.The Registrar of Co-operative Societies (Housing),
O/o.The Registrar Co-operative Societies (Housing),
No.48, Rethardson Road,
Vepery, Chennai – 600 007.

... Respondents



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Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the judgment and decree made in CMA(CS).No.7 of 2018 on the file of the Principal District Judge, Salem, dated 21.11.2020 confirming the order made in Na.Ka.No.1604/2008/E, dated 08.02.2018 on the file of the 1st respondent herein/Deputy Registrar of Co-operative Societies (Housing) Salem Region, Salem District.

For Petitioner	: Mr.K.A.Ravindran
For Respondents	: Mr.C.Sathish Government Advocate for R1, R3 and R4 M/s.M.S.Palaniswamy for R2

ORDER

The Civil Revision Petition is filed challenging the order passed by the Co-operative Tribunal (Principal District Judge, Salem) dismissing the appeal filed by the petitioner challenging the surcharge order passed against him.

2. The petitioner herein worked as a Secretary in second respondent Society, during his tenure he made wrong entry in account book



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as if the amount was disbursed and misappropriated a sum of Rs.1,81,723/- and thereby caused loss to the society. At the instance of the first respondent, an enquiry under Section 81 of Tamil Nadu Co-operative Societies Act was initiated and enquiry officer found the improper entries and resultant loss to the society. Hence, the surcharge proceedings were initiated against the petitioner under Section 87(1) of Tamil Nadu Co-operative Societies Act. The enquiry officer found the petitioner made false entry in the records of the society and misappropriated above said sum and consequently passed surcharge order against the petitioner for above said sum. Challenging the said order, the petitioner preferred appeal before Co-operative Tribunal and the same was dismissed. Hence, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submits that though proceedings under Section 87(1) of Tamil Nadu Co-operative Societies Act was initiated on 11.01.2008, the surcharge order was passed against the petitioner only on 08.02.2018, which is beyond the period of seven years prescribed under Section 87(1) of Tamil Nadu Co-operative Societies



Act. Therefore, the surcharge order passed against the petitioner is barred by limitation.

4. The learned counsel further submitted that there is nothing available on record to show that the petitioner was willfully negligent in discharging his duties and therefore, the surcharge order passed against the petitioner is untenable in law.

5. As far as the question of limitation is concerned, the Co-operative Tribunal found that proper extension of time was obtained under Section 170 of Tamil Nadu Co-operative Society Act and hence, the petitioner was not entitled to challenge the surcharge order passed against him on the ground of limitation.

6. As far as the second contention raised by the learned counsel appearing for the petitioner that there is no wilful negligence on the part of the petitioner is concerned, the charge against the petitioner is that he made false entry in the official record, as if, the amount disbursed to Assistant Secretary



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and misappropriated the said sum. The Court below came to the conclusion after acquiring knowledge about his suspension, the petitioner made false entry in the account book of the society, as if, a sum of Rs.1,81,723/- was disbursed to the Assistant Secretary and put his signature in the account book and the same would amount to fraudulent intention on the part of the petitioner. The loss caused to the society is due to the wilful act of the petitioner in making false entry in the account book of the society.

7. In such circumstances, the argument made by the learned counsel for the petitioner as if, there is no wilful negligence on the part of the petitioner is not acceptable to this Court. Hence, both the submission made by the learned counsel for the petitioner are rejected and the order passed by the Co-operative Tribunal dismissing the appeal against the surcharge order is confirmed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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S.SOUNTHAR, J.

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To
The Principal District Judge, Salem.

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