



C.R.P.No.2933 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No.2933 of 2021

S.Natarajan

..Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies,
11, Thiyagarajapuram,
Vellore – 632 001.

2.The Secretary,
Vellore District Consumers Co-operative
Wholesale Stores Limited,
14, Officers Line,
Vellore – 632 001.

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to call for the records of the Special Tribunal for Co-operative Cases, Madras-cum-Principal District Judge, Vellore judgment and decree dated 08.09.2003 in CTA.No.1 of 2000 and the 1st respondent order dated 29.06.1998 in ARC No.204/96-97 and quash the same.



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For Petitioner : Mr.J.Saravana Vel
For Respondent : Mr.V.Jeevagiridharan,
Additional Government Pleader for R1
Mr.Tarun Gupta.M
for M/s. Gupta & Ravi for R2

ORDER

This revision is at the instance of the employee of the Cooperative Society, who had suffered an award, under Section 90 of the Tamil Nadu Co-operative Societies Act (for brevity “the Act”), for payment of Rs.1,91,447.35/-.

2. The said amount comprised of Rs.1,32,095.10/- being the value of the shortage caused when the petitioner was in-charge of the textile division of Karpagam Co-operative Store, Vellore and interest thereon at 20% for the period upto 29.06.1998. The said claim was made on the contention that the shortage occurred when the petitioner was in-charge of the textile division and proceedings were launched against him under Section 90 of the Act as well as for his removal under the Service Rules and criminal prosecution. The criminal prosecution ended in acquittal.



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As regards the disciplinary proceedings are concerned, it is stated that the petitioner was removed from service and challenge is pending in writ appeal before this Court.

3. In so far as the proceedings under Section 90 of the Act are concerned an *ex parte* award came to be passed on 29.06.1998 directing the petitioner to pay the amount claimed with future interest at 20%. The Cooperative Tribunal confirmed the award of the Registrar made under Section 90 of the Act. Hence, this revision.

4. I have heard Mr.J.Saravana Vel, learned counsel appearing for the petitioner, Mr.V.Jeevagiridharan, learned Additional Government Pleader appearing for the Registrar of Cooperative Society/ 1st respondent and Mr.Tarun Gupta.M, learned appearing for the 2nd respondent.

5. Mr.J.Saravana Vel, learned counsel appearing for the petitioner would vehemently contend that the *ex parte* order passed by the District Registrar does not reflect any application of mind. No document has been referred to and the claim of the petitioner is accepted in toto when considering the evidence that is said to have been placed in support of the



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claim.

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6. The learned counsel would further point out that the appellate Tribunal has also affirmed the said *ex parte* order. The claim petition states that certain documents in support of the claim petition would be produced at the time of hearing. The order of the Deputy Registrar / Arbitrator does not disclose consideration of any documents. It is a cryptic order which after recording the fact that the petitioner has not appeared for enquiry, accepts the claim of the Cooperative Society, even without referring to the evidence that was offered or that was placed before him. Unfortunately, the appellate Tribunal also confirmed the award recording the default on the part of the appellant. No doubt, there is a default on the part of the defendant, but, that by itself would not enable the Deputy Registrar who is invested with adjudicatory functions to pass orders without disclosing the reason or basis on which he arrives at the conclusion.

7. This Court has repeatedly pointed out that even in cases where the Court or Tribunal proceeds *ex parte*, the order must disclose atleast a



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prima facie consideration of the evidence that was placed. Useful reference can be made to the judgment in ***Meenakshisundaram Textiles Vs. Valliammal Textiles Ltd.***, reported in **2011 (3) CTC 168**.

8. If tested in the light of the pronouncement of this Court, it is clear that the order of the Deputy Registrar dated 29.06.1998 made in exercise of the power conferred on him under Section 90 of the Act cannot stand judicial scrutiny. No evidence has been considered and in one line the Deputy Registrar says that the claim of the Society was examined with related documents. This in my opinion is wholly insufficient to saddle the petitioner with the liability. The seal of approval granted by the appellate Tribunal to the above order of the Deputy Registrar is also, in my considered opinion, flawed. The Cooperative Tribunal has not adverted to the total lack of reasons in the award of the Deputy Registrar. I am therefore constrained to set aside the order of the Cooperative Tribunal as well as that of the Deputy Registrar dated 26.09.1998.

9. Hence, the revision will stand **allowed**. The orders of the Co-operative Tribunal and the Deputy Registrar dated 26.09.1998 are set



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aside. The matter is remitted to the Deputy Registrar who will provide an opportunity to the petitioner to contest the claim and pass orders in accordance with law. No costs.

11.01.2024

dsa

Index : No

Internet : Yes

Neutral Citation : No

Speaking order



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To

The Special Tribunal for Co-operative Cases,
Madras-cum-Principal District Judge, Vellore.



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R.SUBRAMANIAN,J.

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