



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2024
CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 26868 of 2024
And
W.M.P.No. 29384 of 2024

D.Ranganathan

... Petitioner

..Vs..

1. The Registrar of Cooperative Societies
N.V.Natarajan Maligai
Periyar E.V.R.Road
Kilpauk, Chennai – 600 010.
2. The Deputy Registrar of Co-operative Societies
Tiruppur,
Tiruppur District.
3. The Sub Registrar,
Palladam,
Tiruppur District.
4. The Tahsildar
Palladam Taluk Office
Tiruppur District.
5. The Manager
K.1787, the Pongalur
Co-operative Store, Pongalur, Tiruppur
District.
[R5-impleaded as per order dated 30.10.2024 in W.M.P.No.
34276 of 2024 in W.P.No. 26868/2024 by GKIJ)
... Respondents



PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records relating to the proceedings of the second respondent dated 20.08.2024 in E.P.No. 1/2024-2025, in Case No. Na.Ka.3034/99/SaPa of Judgment dated 29.06.1999 and quash the same.

For Petitioner	:: Mr. A.Vijaya Kumar
For RR 1 to 4	:: Mr. M.Geetha Thamarai Selvan Additional Government Pleader
For 5 th Respondent	:: Mr. C.Munusamy

ORDER

The Writ Petition has been filed in the nature of a Certiorari seeking records relating to the proceedings of the second respondent / Deputy Registrar of Co-operative Societies, at Tiruppur District dated 20.08.2024 in E.P.No. 1/2024-2025 in Case No. Na.Ka.3034/99 and quash the same.

2. The petitioner's father R.Dhamodharasamy was declared to be a debtor of the fifth respondent Society, the Pongalur Co-operative Society at Tiruppur, consequent to adjudication under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. It had been stated that an adjudication had been passed on 29.06.1999. Thereafter, properties had also been attached taking recourse to



Section 167 of the said Act. The properties were (1) land and building measuring 452 sq.ft., and 138 sq.ft., of house (2) 7.52 acres punja land in Ka.Sa Nos. 365, 358/1, 358/2 all in Pongalur Village, Palladam Taluk. The amount determined as payable by the father of the petitioner was Rs.43,984.59 and carried interest at the rate of 18% p.a.

3. The learned counsel for the petitioner pointed out that the father of the petitioner had died on 06.06.2009. A notice was issued to the petitioner on 12.07.2024. The petitioner sent a reply on 23.07.2024 stating that the notice was improper and had been issued after 25 years from 1999. It had been contended that the delay grossly affected the case of the respondent and that therefore, the notice now impugned should be set aside by this Court.

4. A counter affidavit had been filed on behalf of the respondent wherein it had been stated that the father of the petitioner was the President of the fifth respondent Society and on enquiry, it was found that there were certain irregularities which had occurred and consequently, surcharge proceedings under Section 87 of the Act was issued to him and an order was passed on 29.06.1999 wherein the father of the petitioner and three others were jointly held



responsible for loss of Rs.90,515.5 for the society. It was stated that the composite District of Coimbatore, was bifurcated and Tiruppur District was established. This necessitated bifurcation of the Society and a new Office of Deputy Registrar of Co-operative Societies at Tiruppur was established. The files had to be handed over from Coimbatore. It was only on examination was this order of the surcharge proceedings found and thereafter, steps had been taken for recovery of the amount.

5. It had been stated that a demand notice in Form 6 had been issued to the petitioner to remit the surcharge amount of Rs.43,984.59 together with interest at 18% p.a. It had also been stated that the second respondent had issued an auction cum sale notice in Form 7 on 20.08.2024. The property was also attached and the Sub Registrar at Palladam, had also been addressed to make necessary entries in the encumbrance certificate of the property. An auction cum sale notice was also passed. It had been stated that the procedure followed was in accordance with the rules and regulations.

6. The respondent also placed reliance on the following Judgments of this Court as follows:-



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(i) Division Bench Judgment dated 15.07.2024 in W.A.No. 2118 of 2021;

(ii) Madurai Bench of Madras High Court order dated 07.08.2024 in W.P.(MD).No. 17234 of 2024;

(iii) Order dated 15.03.2021 in W.P.No. 5374 of 2021 (K.Ashok Kumar Vs. The Deputy Registrar of Co-operative Societies, Mayiladuthurai Circle;

(iv) Order dated 01.07.2021 in W.P.No. 12580 of 2020;

(v) Order dated 02.06.2022 in W.P.No. 16639 of 2022 [N.Nachammal Vs. the Deputy Registrar of Co-operative Societies, Dharapuram Circle, Dharapuram;

(vi) Division Bench Judgment in W.A.(MD).No. 431 of 2011 dated 29.04.2022;

(vii) Division Bench Judgment dated 10.03.2023 in W.A.Nos. 1535 and 1536 of 2012; and



(viii) *Order dated 01.09.2023 in W.P.Nos. 21814 & 21818 of 2022.*

7. It had been further contended on behalf of the respondent by the learned Additional Government Pleader that the Act, namely that the Tamilnadu Co-operative Societies Act, 1983 is a self contained Act. It was insisted very vehemently that Rule 135 of the Act provides for an opportunity to the petitioner to raise a claim and the procedure for adjudication of the claim had also been set out in the said rule. It was therefore contended on behalf of the respondent that the scope of this Court sitting under Article 226 of the Constitution of India is quite narrow particularly when the petitioner has an efficacious alternate remedy.

8. It had been contended that the petitioner had not even raised a claim and therefore, the learned Additional Government Pleader stated that the object of the petitioner was only to frustrate the efforts of the Society to recover the amount. It was stated that no appeal had been preferred by the father of the petitioner as against the adjudication under Section 87 of the Act though the order was passed in the year 1999 and the father of the petitioner had unfortunately died only in the year 2009 and for 10 years had abided by the order.



It had been pointed out that since there was bifurcation of the Coimbatore District, the files had to be transferred and thereafter, an Office had to be created in the cadre of Deputy Registrar of Co-operative Society and thereafter, the files were scrutinised and the proceedings had commenced. It is therefore contended that there has been no delay and even if there has been a delay, it had been properly explained by the respondents.

9. I have carefully considered the arguments advanced.

10. The fact that the father of the petitioner was the President of the fifth respondent Society cannot be denied or disputed by the petitioner herein. The fact that proceedings under Section 87 of the Tamilnadu Co-operative Society Act 1983 had been initiated against the father is a fact on record. The fact that an order was passed on 29.06.1999 is again a fact on record. There is no document produced on behalf of the petitioner that the father of the petitioner had challenged the order dated 29.06.1999 in manner known to law under Section 152 of the Act. The order under Section 87 had therefore become final. It is binding on the father of the petitioner. On the death of the father of the petitioner, it is now binding on the petitioner herein. The petitioner had benefited from the amounts determined to



have been misappropriated by his father. The respondents have no other alternate but to proceed against the properties which had been attached.

11. It is a fact that the Coimbatore District had been bifurcated and Tiruppur District had been established. Naturally, there would be administrative delays in scrutinising all files and pending matters of each and every Co-operative Society which extended to Tiruppur area from erstwhile Coimbatore District. The Deputy Registrar of Co-operative Society would have to examine the files relating to each and every Society and determine the defaulters against whom, adjudication orders had been passed and then take action. The delay therefore is understandable.

12. The petitioner however should have an opportunity to question such delay. He can raise that aspect before the Sales Officer by making a claim statement under Rule 135 (1) and (2) of the Tamil Nadu Co-operative Societies Rules 1988. The Sales Officer may examine the claim of the petitioner and adjudicate the same. If an order is passed by the Sales Officer and if the petitioner seeks to question the same, he will have to proceed according to Rule 135(3) of the Rules and file a suit before the jurisdictional Court. Even before



that Court, the issue of limitation can be raised by the petitioner herein since it is a mixed question of fact and law. The forum where the petitioner can raise all issues is before the Sales Officer by presenting a claim petition under Rule 135 (1) and (2) of the Rules.

13. This Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition stands closed. No order as to costs.

14. If the petitioner prefers a claim petition on or before 15.01.2025, then the Sales Officer may adjudicate on the claim. Till such time, the Sales Officer may put on hold further proceedings, but if no claim petition is filed till 15.01.2025, the Sales Officer is at liberty to proceed further in manner known to law.

17.12.2024

vsg
Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order

To

1. The Registrar of Cooperative Societies
N.V.Natarajan Maligai
Periyar E.V.R.Road
Kilpauk, Chennai – 600 010.



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C.V.KARTHIKEYAN, J.,
vsg

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