



WEB COPY



C.R.P. (NPD) .No.3583 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.R.P.(NPD).No.3583 of 2022

The Managing Director,
No.8994 Tiruchengode Cooperative Urban Bank Ltd.,
No.71, Nandhi Complex,
Sannathi Street, Tiruchengode Taluk,
Namakkal District – 637 211.

.. Petitioner

Vs.

1.A.Sudha

2.The Deputy Registrar of Cooperative Societies,
Office of Deputy Registrar of Cooperative Societies',
Tiruchengode Circle,
Sudhakaran Complex CHB Colony,
Paramthi Velure Main Road,
Tiruchengode Taluk,
Namakkal District – 637 211.

3.A.Balasubramaniam,
Formerly Jewel Appraiser,
Tiruchengode Cooperative Urban Bank Ltd.,
D.No.07, Paavadi Street, 03,
Tiruchengode Taluk, Namakkal District – 651 211.

4.S.Natarajan,
Formerly Cashier,



C.R.P. (NPD) .No.3583 of 2022

WEB CODE

Tiruchengode Cooperative Urban Bank Ltd.,
D.No.1/37, Kundanoor, Chettimankurichi Post,
Edappadi Taluk, Salem District – 637 101.

.. Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 10.06.2022 passed in C.M.A.(CS).No.10 of 2019 on the file of the learned Principal District Judge and Special Tribunal for Cooperative Cases, Namakkal by reversing the Surcharge Award dated 10.04.2019 passed in Na.Ka.1734/2018, Sa.Pa. on the file of the 2nd respondent.

For Petitioner	: Mr.R.Balaramesh
For R1	: Mr.K.A.Ravindran
For R2	: Mr.T.Arun Kumar Additional Government Pleader
For R3	: No appearance
For R4	: Mr.T.L.Thirumalaisamy

ORDER

This Civil Revision Petition has been filed against the order passed in C.M.A.(CS).No.10 of 2019 on the file of the Principal District Court, Namakkal, dated 10.06.2022, wherein the 1st respondent herein has filed an appeal under Section 152(1)(a) of the Tamil Nadu Co-Operative Societies



C.R.P. (NPD) .No.3583 of 2022

Act, 1983, read with Rule 169 of the Tamil Nadu Co-Operative Rules, 1988, as against the Surcharge Order in Na.Ka.1734/2018 Sa.Pa. Dated 10.04.2019, passed by the Deputy Registrar of Co-Operative Societies, Tiruchengode Circle, Namakkal. The said appeal was allowed by the Principal District Judge and the Special Tribunal for Co-Operative cases, Namakkal. Aggrieved by the said judgment, the present Civil Revision Petition has been filed.

Short facts necessary to dispose of the petition are as follows:

2.The 1st respondent was in-charge of the petitioner society as Branch Manager. At that time, she had adjusted eight bogus jewel loans for a sum of Rs.10,00,000/- received from one Shanmugam on 25.11.2015. The petitioner is the Society registered under the Tamil Nadu Co-Operative Societies Act, 1983. The Additional Registrar of Co-Operative Societies vide his proceedings dated 03.12.2015 had appointed one S.Kalaiselvan, Co-Operative Sub Registrar as an Enquiry Officer to enquire into the misappropriation and malpractice held in the Savings Bank account, jewel loan and deposits in the Koottapalli branch of S.8994 of Tiruchengode Co-



Operative Urban Bank Limited. The enquiry report was submitted on 09.06.2016. As per the enquiry report, the Branch Manager, Jewel Appraiser, the 1st respondent and some casual labourers and outsiders had duly indulged in malpractice of pledging spurious jewels in 180 jewel loans and thereby caused loss to the bank of Rs.1,25,81,700/-.

3. Based on the enquiry under Section 81 of the Tamil Nadu Co-Operative Societies Act, 1983, the surcharge proceedings has been initiated under Section 87 of the Tamil Nadu Co-Operative Societies Act, 1983. Thereafter issued show cause notice under Section 87(1) of the Tamil Nadu Co-Operative Societies Act, 1983 and received explanation from the concerned persons. The 1st respondent in her reply to the show cause notice stated that she adjusted the eight bogus jewel loans wherein she is alleged to have involved for loss of Rs.10,00,000/- and the remaining amount of Rs.4,54,113/- is kept in suspension account of the petitioner bank. The said amount was received from one Shanmugam. Similarly, an amount of Rs.5,00,000/- was received from one Balasubramaniam is also kept in the suspension account of the petitioner's bank. Challenging the said surcharge



proceedings, the 1st respondent filed C.M.A.(CS).No.10 of 2019 before the Principal District Judge of Namakkal.

4.While pendency of the above CMA, the 1st respondent filed an application to receive the additional documents and the same was allowed. Based on the documents and without giving any sufficient chance to the petitioner, allowed the application and also allowed the C.M.A.(CS).No.10 of 2019 on the ground that the 1st respondent is only supervising authority and there is no wilful disobedience or wilful negligence on the part of the 1st respondent. In fact, the 1st respondent after knowing very well that the amount was paid by one Shanmugam. Therefore, as per the enquiry, the 1st respondent also liable to pay the amount and she also involved in the said malpractice. But the learned Principal District Judge, Namakkal has failed to consider the same and allowed the appeal. Hence, this revision petition is filed.

5.The learned counsel for the petitioner would contend that the 1st respondent has also misappropriated and involved in malpractice and thereby



caused loss to the bank to the tune of Rs.1,25,81,700/-. Against the 1st respondent, around Rs.8,00,000/- was imposed and the said amount was received from one Shanmugam, who is also involved in this case. The 1st respondent while she was working as a Manager, she failed to verify the documents and she was wilfully negligent in her duty and therefore, the enquiry was conducted and thereafter surcharge proceedings was issued. The learned Principal District Judge, Namakkal without considering the seriousness of the case, allowed the CMA and moreover during the pendency of the CMA, the 1st respondent filed an application to receive the documents. In that application, no opportunity was given to the petitioner. Without giving opportunity, the said petition was allowed and based on those documents, the learned Principal District Judge, Namakkal has passed orders and therefore, the orders passed by the learned Principal District Judge, Namakkal is liable to be set aside.

6.The learned counsel for the 1st respondent would contend that the 1st respondent was only in-charge of the petitioner bank for a period of eight months. During that period, some malpractice were committed by the other



staffs. There is no direct nexus to the 1st respondent regarding the said malpractice and that she is only a supervising authority and there is no wilful negligence on the part of the 1st respondent. Already disciplinary proceedings were initiated against her. As per the findings of the disciplinary authority, she is only negligence and thereby punishment of stoppage of increment was imposed and the District court considering all the materials, correctly allowed the appeal by holding that there is no wilful dereliction of duty and wilful negligence on the part of the 1st respondent and therefore, the judgment passed by the Principal District Judge, Namakkal, is proper and the present Civil Revision Petition is liable to be dismissed.

7.This Court heard both side arguments and perused the materials available on record.

8.In this case, the 1st respondent was working under the petitioner and she was in-charge of the petitioner bank branch at Koottapalli for eight months. At that time, there was some malpractice and misappropriation of funds and thereby enquiry was conducted under Section 81 of the Tamil Nadu



Co-Operative Societies Act, 1983. Thereafter surcharge proceedings were initiated under Section 87(1) of the Tamil Nadu Co-Operative Societies Act, 1983. Against the 1st respondent, the charge is that she failed to supervise the bank. On a careful perusal of the surcharge proceedings issued by the concerned authorities, it reveals that the 1st respondent was only in-charge of the Secretary of the Bank.

9.Originally the 1st respondent was working as an Assistant. During the said in-charge period, there was some misappropriation by other persons and there is no direct involvement by the 1st respondent in the said malpractice and the misappropriation. The petitioner is the supervising authority. She has to supervise all the loans issued by the petitioner. There is no sufficient material to prove the wilful negligence by the 1st respondent. It is also admitted fact that already disciplinary proceedings were initiated against the 1st respondent and punishment was also imposed for her negligence. There is no findings in the disciplinary proceedings about the wilful negligence. In this context, the learned Principal District Judge also after referring the various judgments of the Hon'ble Supreme Court and this Court, held that in



the absence of wilful and deliberate misconduct, it is not possible to mulct responsible from the officer even after loss is caused to the society. Mere negligence is not enough to attract surcharge proceedings under Section 87(1) of the Tamil Nadu Co-Operative Societies Act, 1983, unless it is a wilful negligence.

10.Further, the learned Principal District Judge also received the documents produced by the 1st respondent after assigning the reasons and thereafter only passed a reasoned order. Though the petitioner has pleaded that no opportunity was given in the said application to receive the documents, the order passed by the learned Principal District Judge would reveal that the petitioner has filed counter and the learned Principal District Judge after hearing both sides only passed the order. Therefore, the contention of the petitioner that without giving opportunity the documents were marked is not acceptable.

11.The District Court after perusing the entire materials available on record, correctly came to a fair conclusion that there is no wilful negligence



C.R.P. (NPD) .No.3583 of 2022

on the part of the 1st respondent. Therefore, the above said order passed by the Trial Court is proper and there is no infirmity or perversity in the order passed by the Court below and it does not warrant the interference of this Court.

12.In view of the above discussions, this Court is of the opinion that the Civil Revision Petition has no merits and deserves to be dismissed and is accordingly dismissed. No costs.

02.08.2024

krk

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



C.R.P. (NPD) .No.3583 of 2022

WEB COPY

To

- 1.The Principal District Judge and
Special Tribunal for Cooperative Cases,
Namakkal.
- 2.The Deputy Registrar of Cooperative Societies,
Office of Deputy Registrar of Cooperative Societies',
Tiruchengode Circle,
Sudhakaran Complex CHB Colony,
Paramthi Velure Main Road,
Tiruchengode Taluk,
Namakkal District – 637 211.



WEB COPY



C.R.P. (NPD) .No.3583 of 2022

P.DHANABAL, J.

krk

C.R.P.(NPD).No.3583 of 2022

02.08.2024