



W.A.No.1286 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.1286 of 2021

Kalaiselivi

.. Appellant

Vs

1. The Deputy Registrar of Co-operative Societies
Thirukoilur, Villupuram District.

2. The President
E.2595, Kallakurichi Agricultural Producers
Co-operative Marketing Society Ltd
Kallakurichi – 606 202, Villupuram District.

.. Respondents

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 10.8.2018 passed by the learned Single Judge in W.P.No.5215 of 2016.

For the Appellant : Mr.M.S.Palaniswamy
for Mr.Yogesh Kannadasan

For the Respondents : Mr.C.Kathiravan
Special Government Pleader
for 1st respondent

: Mr.L.P.Shanmugasundaram
for 2nd respondent



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JUDGMENT

(Delivered by the Hon'ble Chief Justice)

Heard Mr.M.S.Palaniswamy, learned counsel for the appellant; Mr.C.Kathiravan, learned Special Government Pleader for the first respondent; and Mr.L.P.Shanmugasundaram, learned counsel for the second respondent.

2. The appellant was a Special Officer. On account of certain allegations of irregularities, surcharge proceedings were initiated against the appellant. The show cause notice issued to the appellant pursuant to the said surcharge proceedings is challenged by the appellant by filing a writ petition. The learned Single Judge dismissed the writ petition.

3. Learned counsel for the appellant submits that the appellant was the Special Officer only for a period of seven months with the second respondent society. The appellant was relieved on 30.3.2011. The auction was conducted on 16.3.2011, 23.3.2011



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and 30.3.2011. A new officer took over charge from the appellant.

As such, the appellant is not responsible for any of the activities which had taken place after 30.3.2011.

4. Learned counsel for the appellant further submits that the second respondent society already has an award in its favour against the two traders who failed to lift stock within thirty days and did not pay the amount. The appeals filed by them are dismissed. The civil revision petitions filed by the traders are pending. The second respondent has also filed execution proceedings for recovery from the said two traders. In view of that, dual proceedings for recovery of the same amount against the appellant cannot be resorted to. Learned counsel for the appellant relies upon the judgment of a learned Single Judge of this Court in the case of *M.Kunjithapatham and others v. Thiruvilaiyattam Village Co-operative Agricultural Credit Society and another*, (1979) 1 MLJ 6.

5. It appears that the notice is a show cause notice. The learned Single Judge has observed that a final order is to be passed



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after the appellant files a reply to the show cause notice and if at all the final order goes against the appellant, the appellant has a remedy available before the Tribunal.

6. Pursuant to the notice issued to the appellant, the appellant will have the opportunity to raise all the grounds of defence available to her, which certainly will have to be considered by the authority before passing final order under Section 87 of the Tamil Nadu Co-operative Societies Act. The appellant is also entitled to rely upon the judgments to buttress her case before the authority by filing copies of the same.

7. It is made clear that we have not decided any issue on merits of the matter and the authority would certainly decide all the issues that would be raised by the appellant by way of reply to the show cause notice. The appellant shall file the reply to the show cause notice within three weeks from today.

The writ appeal is disposed of accordingly. There shall be no



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order as to costs. Consequently, C.M.P.No.8153 of 2021 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

24.01.2024

Index : Yes/No
Neutral Citation : Yes/No
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To:

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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

(sasi)

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