



C.R.P.P.D.(MD)No.1168 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2024

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P.P.D.(MD)No.1168 of 2022 &
C.M.P.(MD)No.4799 of 2022

V.Ravi

...Petitioner

vs.

1.The Joint Registrar of Cooperative Societies,
Tiruchirappalli Region,
Multistory Building, Mannarpuram,
Tiruchirappalli - 620 020.

2.The Deputy Registrar of Cooperative Societies,
Musiri, O/o.Deputy Registrar of Cooperative Societies,
218/4, College Road,
Melavadupatti, Illango Nagar, Musiri,
Tiruchirappalli District - 621 211.

3.R-194 Pillathurai Primary Agricultural
Cooperative Credit Society Ltd.,
Represented by its Secretary,
Pillathurai, Musiri Taluk,
Tiruchirappalli District.

...Respondents



C.R.P.P.D.(MD)No.1168 of 2022

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the Judgement and Decree passed in C.M.A. (CS)No.54 of 2015 dated 16.11.2017 by the learned Principal District Judge, Tiruchirappalli.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.P.Thambidurai,
Government Advocate for R1 and R2

O R D E R

This Civil Revision Petition is filed to set aside the Judgement and Decree dated 16.11.2017 passed in C.M.A.(CS)No.54 of 2015 by the learned Principal District Judge, Tiruchirappalli.

2. The only issue in the present case is that without providing the Enquiry Report under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 [hereinafter referred as 'the Act'] and other relevant documents, surcharge proceedings was initiated by the second respondent against the petitioner.



WEB COPY

3. The learned counsel appearing for the petitioner would fairly submit that the petitioner has received the surcharge notice dated 06.06.2011. However, he has not received the Section 81 Enquiry Report. In spite of the request made by the petitioner to the second respondent, the second respondent has not provided a copy of the Enquiry Report and other relevant documents. Without having any knowledge about the charges levelled against him based on the Enquiry Report, the petitioner was not in a position to adduce any evidence and advance the case. Under such circumstances, the second respondent passed the surcharge proceedings against the interest of the petitioner.

4. The learned counsel for the petitioner would further submit that against the said order of the second respondent dated 10.07.2015, an appeal was filed by the petitioner before the Principal District Judge, Tiruchirappalli in C.M.A.(C.S.)No.54 of 2015. In the said appeal also, the petitioner raised the issue regarding the failure of the second respondent to furnish the Section 81 Enquiry Report to him. Though the



C.R.P.D.(MD)No.1168 of 2022

learned Judge has recorded the said stand of the petitioner, he has not given any finding in that regard. The learned counsel would therefore contend that without application of mind, the order under challenge has been passed and pleaded this Court to set aside the impugned order dated 16.11.2017 as well as the order of the second respondent dated 10.07.2015. He fairly prayed that the matter may be remanded to the second respondent for fresh consideration and in which case, after furnishing all records including the Section 81 Enquiry Report and after affording time for filing counter and also after affording opportunity of personal hearing to both the parties, the matter may be decided in accordance with law.

5. In reply, the learned Government Advocate appearing for the respondents 1 and 2 would submit that in the order passed by the second respondent, it was recorded that documents were furnished to the petitioner along with surcharge proceedings notice.



C.R.P.D.(MD)No.1168 of 2022

WEB COPY

6. However, the learned counsel appearing for the petitioner would submit that the second respondent is unable to state what are the documents were furnished to the petitioner and is not also able to substantiate the furnishing of Section 81 Enquiry Report to the petitioner.

7. I have given due consideration to the submissions made on either side and perused the materials available on record.

8. Upon perusal of the documents, it could be seen that the issue is whether Section 81 Enquiry Report along with other relevant documents have been furnished to the petitioner or not. In the present case, there is no dispute with regard to the service of surcharge proceedings notice dated 06.06.2011 to the petitioner. It was recorded in the second respondent proceedings dated 10.07.2015 as if some documents have been furnished to the petitioner. However what are all the documents furnished to the petitioner has not been mentioned. The learned Government Advocate appearing for the respondents 1 and 2 is also not able to produce any records in that regard. The petitioner in his reply



C.R.P.P.D.(MD)No.1168 of 2022

letter dated 26.06.2015 has narrated that the relevant documents including the Section 81 Enquiry Report has not been furnished. In spite of that fact, the second respondent proceeded to conduct the enquiry under Section 87 of the Act. To conduct enquiry under Section 87 of the Act, it is mandatory to furnish the Section 81 Enquiry Report. Without complying the said provision of law and furnishing the relevant documents, in a mechanical manner, the second respondent has passed the surcharge order on 10.07.2015. Challenging the same, the petitioner preferred an appeal in C.M.A.(CS)No.54 of 2015 before Principal District Judge, Tiruchirappalli where a specific plea was raised about the failure of the second respondent to furnish Section 81 Enquiry Report while conducting Section 87 Enquiry. Though the statement of the petitioner was recorded by the learned Judge, no finding has been rendered in that regard while passing the order. The learned Judge has passed a mechanical order confirming the order of surcharge. In the present case, it is clear that without providing Section 81 Enquiry Report and other relevant documents as requested by the petitioner in his letter dated 26.06.2015, surcharge order has been passed. Under such



C.R.P.D.(MD)No.1168 of 2022

circumstances, it is no doubt that both the surcharge order dated 10.07.2015 as well as the impugned order dated 16.11.2017 are in violation of principles of natural justice.

9. For all these reasons, this Court is of the view that the Judgement and decree dated 16.11.2017 passed by the learned Principal District Judge, Tiruchirappalli as well as the surcharge order dated 10.07.2015 passed by the second respondent are liable to be set aside. Accordingly, both the orders are set aside.

10. While setting aside the orders, the matter is remanded back to the file of the second respondent for fresh consideration and passing of orders afresh. As requested by the petitioner, the second respondent is directed to provide the Section 81 Enquiry Report and other relevant documents which have been relied upon in the surcharge proceedings by the complainant. Subsequent to the above, the second respondent is directed to provide time to the petitioner for filing counter in reply, if any and thereafter, afford opportunity of personal hearing to both the parties



C.R.P.D.(MD)No.1168 of 2022

and then decide the matter in accordance with law within a period of six months from the date of receipt of a copy of this order.

11. Accordingly, the Civil Revision Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

19.12.2024

NCC:Yes/No

Index:Yes/No

Speaking/Non-speaking order

mbi

To

1.The Joint Registrar of Cooperative Societies,
Tiruchirappalli Region,
Multistory Building, Mannarpuram,
Tiruchirappalli - 620 020.

2.The Deputy Registrar of Cooperative Societies,
Musiri, O/o.Deputy Registrar of Cooperative Societies,
218/4, College Road,
Melavadupatti, Illango Nagar, Musiri,
Tiruchirappalli District - 621 211.



WEB COPY



C.R.P.P.D.(MD)No.1168 of 2022

KRISHNAN RAMASAMY, J.

mbi

C.R.P.P.D.(MD)No.1168 of 2022

19.12.2024