



W.P.(MD).No.12886 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.12886 of 2024

and

W.M.P.(MD)Nos.11466 and 11467 of 2024

R.Sekar

... Petitioner

Vs.

The District Revenue Officer /
General Manager,
Tiruchirappalli District Co-operative
Milk Producers Union Limited,
Pudukkottai Road, Kottappattu,
Tiruchirappalli-620 023.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings passed by the respondent vide in Na.Ka.No.7187/Poo.Ne/A4/2022 dated 20.05.2024 and quash the same.

For Petitioner : Mr.S.Karthikeyan

For Respondent : Mr.T.Devasenan,
Standing Counsel

ORDER

This writ petition is filed to call for the records relating to the impugned proceedings passed by the respondent vide in Na.Ka.No. 7187/Poo.Ne/A4/2022 dated 20.05.2024 and quash the same.



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2.Heard the learned counsels on either sides and carefully perused the materials available on record.

3.Claiming that the impugned order dated 20.05.2024 passed by the respondent during the pendency of the appeal before the learned learned District and Sessions Judge's Court, Trichirappalli in CMA CS (SR)No.8674 of 2023, this writ petition is filed.

4.The learned counsel for the petitioner submitted that when the proceedings under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983, was initiated, the petitioner was not made one of the respondents in the said proceedings. However, during the surcharge proceedings under Section 87 of the Act, the petitioner was later included on the basis of the statement of one of the delinquents in the Section 81 proceedings. While being so, the surcharge proceedings was finally concluded as against the petitioner and two others. Challenging the same, the petitioner filed CMA CS (SR)No.8674 of 2023 before the learned District and Sessions Judge, Trichirappalli. Even before the same was taken on file before the learned District and Session Judge's Court, Trichy, the impugned recovery order



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dated 20.05.2024 came to be filed and such an exercise is *per se* illegal and pressed for allowing the writ petition.

5.Per contra, the learned counsel for the respondent submitted that the contention of the petitioner is completely baseless and the petitioner was a delinquent as early as in the proceedings under Section 81 enquiry itself and finally in the surcharge proceedings under Section 87, the same was concluded and finalised. The petitioner ought to have filed an appeal before the learned District and Sessions Court at Trichy, within the period of limitation. However, having not done so, the same is pending in the condone delay stage. Having not been able to get an order of interim stay before the appropriate tribunal, now the petitioner is trying to evade the recovery proceedings by way of this writ petition and the same is not permissible and pressed for allowing the writ petition.

6.For which, the learned counsel for the petitioner submitted that the delay was not wanton but the same was due to the filing of the writ petition, challenging the surcharge order passed by the respondent before this Court in W.P.(MD)No.13034 of 2023 and the aforesaid writ petition was disposed of by this Court by directing the petitioner to approach the concerned



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Tribunal by way of filing an appeal. In view of the same, adopting the same order passed by this Court, directing the petitioner to seek his remedy before the appropriate Tribunal by way of filing an appeal, this writ petition stands disposed of. However, the learned Tribunal while considering the Appeal shall consider the period during which the writ petitions in W.P. (MD)Nos.13034/2023 and 12886/2024 were pending before this Court for the purpose of condone delay petition in preferring Appeal. No costs. Consequently, connected miscellaneous petitions are closed.

22.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

The District Revenue Officer /
General Manager,
Tiruchirappalli District Co-operative
Milk Producers Union Limited,
Pudukkottai Road, Kottappattu,
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L.VICTORIA GOWRI, J.

Sml

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