



C.R.P(MD)No.1706 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2024

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1706 of 2019

and

C.M.P(MD)No.8768 of 2019

Special Officer,
TN Spl 141, Vilathikulam Primary Agriculture
Co-operative Credit Society,
Vilathikulam,
Tuticorin District.

... Petitioner /2nd Respondent

Vs.

1.P.Raj Mohan

... Respondent/Appellant

2.The Deputy Registrar of Co-operative Societies,
Vakil Street, Kovilpatti,
Tuticorin District.

...Respondent/1st Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed in C.M.A(CS)No.2 of 2013, dated 27.06.2016 on the file of the Principal District Court, Tuticorin.

For Petitioner : Mr.K.K.Samy

For R1 : Mr.N.Sundaresan

For R2 : Mr.C.Satheesh
Government Advocate



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ORDER

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The Special Officer of the Vilathikulam Primary Agriculture Co-operative Society is the petitioner herein.

2. The Secretary of the said Society, namely P.Raj Mohan was issued with a notice under Section 81 of the Tamil Nadu Co-operative Societies Act and an enquiry report was submitted. Based upon the enquiry report, proceedings under Section 87 of the Co-operative Societies Act were initiated on 20.03.2000. An award was passed on 26.03.2011 fixing the liability upon the President and Secretary of the said Co-operative Society. The President has admitted his liability and paid the principal amount. As far as the Secretary is concerned, in the surcharge proceedings, he was mulcted with the liability to pay a sum of Rs.15,126.80/- along with interest at the rate of 18%. It is also brought to the notice of the Court that the entire principal amount of Rs.15,126.80/- had been deposited by the Secretary on 31.08.1999 that is even before the initiation of enquiry under Section 81 of the said Act. Therefore, as per the award under Section 89, the Secretary was directed to pay interest for the belated deposit of the amount. Challenging only the said portion of the award, the Secretary had filed C.M.A(CS)No.2 of 2013 before the Principal District Court, Thoothukudi. The Co-operative tribunal has



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allowed the said appeal on the ground that Section 87 proceedings have not been completed within a period of 6 months as contemplated under the said Act. Challenging the same, the present appeal has been filed by the Special Officer of the Co-operative Society.

3. According to the learned counsel appearing for the petitioner, the outer limit fixed under Section 87 of the Co-operative Societies Act is only directory and not mandatory and therefore, on the said ground, the appeal filed by the 1st respondent herein ought not to have been allowed. He further contended that though the Secretary has deposited the principal amount, he is liable to pay interest at the rate of 18%. Hence, he prayed for allowing the appeal.

4. Per contra, the learned counsel appearing for the 1st respondent had contended that since the amount has been deposited even prior to the initiation of enquiry under Section 81, he is not liable to pay any interest whatsoever. Hence, he prayed for sustaining the award passed by the Co-operative Tribunal.

5. I have carefully considered the submissions made on either side and perused the material records.



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6. In view of the judgment of Hon'ble Division Bench of our High Court reported in **2008 (8) MLJ 231 (S.V.K.Sahasramam Vs. The Deputy Registrar of Co-operative Societies & Others)**, the time limit fixed under Section 87 of the Co-operative Societies Act is only directory in nature and not mandatory. Therefore, the tribunal was not right in allowing the appeal on the said ground.

7. Now let us consider whether the Secretary is liable to pay interest for the amount on the ground that he had already deposited the amount prior to the initiation of Section 81 enquiry.

8. A perusal of the enquiry report clearly indicates that the petitioner has raised invoices as transport charges even though he had attended offices on the relevant dates. Therefore, the petitioner was mulcted with the liability to repay the said amount of Rs.15,126/-. The petitioner has raised these invoices for the period between November 1996 to July 1998. However, the principal amount has been deposited only on 31.08.1999. Therefore, this Court is of the considered opinion that the Secretary is liable to pay the interest. However, the authority ought not to have fixed the interest at the rate of 18%. This Court is of the opinion that fixing 12% interest would be reasonable interest.



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9. Calculating interest at the rate of 12% from 01.08.1998 till 31.08.1999, the interest comes to Rs.1,966/-. Therefore, this Court directs the 1st respondent herein to deposit a sum of Rs.2,000/- as interest for the belated deposit of the amount.

10. In view of the above said facts, the order of the Co-operative Tribunal is set aside and the revision petition is allowed directing the 1st respondent in the appeal to deposit a sum of Rs.2,000/- (Rupees Two Thousand only) as interest for the belated payment of Rs.15,126.80/-. On such payment, the Co-operative Society is directed to release all the terminal benefits.

11. Accordingly, this Civil Revision Petition stands allowed to the extent as stated above. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

17.04.2024

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

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- 1.The Deputy Registrar of Co-operative Societies,
Vakil Street, Kovilpatti,
Tuticorin District.
- 2.The Principal District Court,
Tuticorin.
- 3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

R.VIJAYAKUMAR ,J.



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