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REV.APLW.(MD)No.107 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

REV.APLW.(MD)No.107 of 2023 in

W.P.(MD)No.9761 of 2020 &

W.M.P.(MD)Nos.12411 & 12412 of 2023

M.Sundarakaleeswari

... Petitioner/Petitioner

Vs.

1. The Deputy Registrar of Co-operative Societies,
K.T.M.Complex, Salai Street,
Ramanathapuram.

2. Thirumathi.S.Poorna Chandramathi

3. S.Francis

4. The Managing Director / Joint Registrar,
Ramanathapuram District Central Cooperative
Bank Ltd.,
Vandikkara Street,
Ramanathapuram.

... Respondents/Respondents

PRAYER : Review Petition filed under Order 47 Rule 1 r/w.
Section 114 of CPC., to review the order passed by this Court in W.P.
(MD)No.9761 of 2020 dated 25.04.2023.

For Review applicant: Mr.B.Saravanan,
Senior counsel,
for Mr.D.Kirubakaran.



For R-1 : Mr.K.Balasubramani,
Special Government Pleader.

For R-4 : Mr.D.Shanmugaraja Sethupathi

For R-2 : Mr.R.Saravanan

JUDGMENT

Heard the learned Senior counsel appearing for the review applicant and the learned Special Government Pleader appearing for the first respondent and the learned counsel appearing for the private respondents.

2. The review applicant herein filed W.P.(MD)No.9761 of 2020 questioning the surcharge order dated 03.08.2020 passed against her by the Deputy Registrar of Co-operative Societies, Ramanathapuram. The writ petition was dismissed by me on 25.04.2023 granting liberty to her to file an appeal before the Co-operative Tribunal. Seeking review of the said order, this review application has been filed.



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3. The learned Senior counsel points out that the review applicant received surcharge notice on 19.07.2020 and questioning the same, she filed W.P.(MD)No.8442 of 2020. This Court had granted an order of interim injunction on 31.07.2020. The contention of the review applicant is that in breach of the injunction order, surcharge order came to be passed on 03.08.2020. A copy of the interim order passed by this Court on 31.07.2020 has been enclosed in the typed set of papers. It is seen that the interim order was passed in the presence of the learned Special Government Pleader representing the Deputy Registrar of Co-operative Societies, Ramanathapuram. When an interim order is granted in the presence of the counsel for a party, that party is deemed to have knowledge of the same. In normal circumstances, when an order of interim injunction is granted, the person against whom the interim order is granted can always contend that it will become effective only from the date of service or knowledge. But these defences will not be available, when the interim order is passed in the presence of the counsel for the party concerned.



4. Any order passed in breach of the interim order has to be set aside. Clock has to be put back and the original position restored. On the ground that the order impugned in W.P.(MD)No.9761 of 2020 was passed in breach of the interim injunction granted in W.P.(MD)No.8442 of 2020, the order impugned is set aside. W.P.(MD)No.9761 of 2020 is allowed. The right of the review applicant will abide outcome of W.P.(MD)No.8442 of 2020. This review application is allowed on these terms. I make it clear that I have quashed the surcharge order in respect of the review applicant alone. No costs. Consequently, connected miscellaneous petitions are closed.

28.08.2024

Index : yes/No
Internet: Yes/No
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To

The Deputy Registrar of Co-operative Societies,
K.T.M.Complex, Salai Street,
Ramanathapuram.



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REV.APLW.(MD)No.107 of 2023

G.R.SWAMINATHAN,J.

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W.P.(MD)No.9761 of 2020

28.08.2024