BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 06.06.2024

DELIVERED ON: 12.06.2024

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD).No.862 of 2014
and M.P(MD).No.1 of 2014

K.Mathivanan ..Petitioner/Appellant

Vs

1.The Deputy Registrar Co-operative Societies
Musiri, having office at Musiri
Tiruchirappalli District

2.The Kattuputhur Primary Agricultural
Co-operative Credit Society by its
Special Officer having office at
Kattuputhur, Musiri Taluk, Trichy District.

3.T.Ranjith

4.K.Ponnusamy

5.A.V.S.Arumugam ...Respondents/Respondents

PRAYER: The Civil Revision Petition has been filed under Section 227 of Constitution of India to set aside the judgment and decreetal order made in CMA(CS).No.79 of 2012 dated 21.03.2013 on the file of the Principal District Judge, Tiruchirappalli.

For Petitioner	:Mr.V.O.S.Kalaiselvam
For R1 & R2	: Mr.C.Satheesh Government Advocate
For R3 & R4	: No appearance
For R5	: Mr.G.Thalaimutharasu

O R D E R

The instant revision petition has been filed by the Special Officer of a Co-operative Society challenging the order in CMA(CS).No. 79 of 2012 on the file of the Principal District Court, Trichy confirming the order passed by the first respondent herein under Section 87 of the Tamil Nadu Co-operative Societies Act.

(A)Facts leading to the filing of the present revision petition are as follows:

2.While the petitioner was working as a Special Officer in Kattuputhur Primary Agricultural Co-operative Credit Society between 01.04.2010 to 24.05.2011, 155 Kisan Credit Card loans were disbursed by the concerned society without any resolution for getting reimbursement from Trichy District Central Co-operative Bank. On the basis of the above said allegations, proceedings were initiated under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 and a report was filed on 09.09.2011. Based upon the said report, the proceedings were initiated under Section 87 of the Tamil Nadu Co-operative Societies Act and the orders were passed on 09.07.2012 fixing the liability upon the revision petitioner herein. Challenging the same, he had filed CMA(CS).No.79 of 2012 before the Principal District Court, Trichy. The Principal District Court was pleased to dismiss the appeal. Challenging the same, the present revision petition has been filed.

(B)Contentions of the learned counsel appearing on either side:

3.According to the petitioner, Kisan Credit Card loans were disbursed by the society out of their own fund considering the emergent situation. A part of the loan amount were recovered along with interest by the society. Therefore, there is no loss incurred by the society. He had further contended that when the legal remedy is available to recover the loan from the concerned members of the society, namely the farmers, the same cannot be considered to be a wilful negligence on the part of the

Special Officer of the concerned Co-operative Society in not recovering the loan. He had further contended that when already proceedings have been initiated under Section 90 of the Tamil Nadu Co-operative Societies Act as against the concerned borrower, recovery of debt proceedings under Section 87(1) of the Co-operative Societies Act cannot be initiated as against the employees which would result in double benefit for the society. He had further contended that it is the duty of the Secretary to pass the resolution and to forward the same to the Central Co-operative Bank for reimbursement of KCC loan. Though resolution was passed, the same was not forwarded by the Secretary of the concerned Society. The Secretary has also admitted that the fault is on his part. In such circumstances, the Special Officer ought to have been exonerated.

4.The learned counsel for the petitioner had further contended that passing of resolution for reimbursement of KCC loan by the Central Co-operative Bank is only a procedural violation and the same could be rectified and therefore, it can never be considered to be a wilful negligence. It could be further seen that on disbursement of KCC loan, there is only an interest loss and therefore, the principal amount cannot be recovered from the revision petitioner. The principal amount is liable to be paid by the members of the society namely the farmers. He had further contended that the concerned Special Officer in-charge of various societies and hence, the employees of the concerned societies have not received the signature in the resolution for reimbursement to be forwarded to the District Central Co-operative Bank. In such circumstances, only the Secretary of the Society could be held responsible and not the Special Officer who is holding additional charge on honorary basis. The Special Officer has put in unblemished service for so many years in the department and therefore, he cannot be punished for certain procedural violation which can be rectified in due course. The loan disbursed to the farmers can be recovered through legal remedy and the same cannot be recovered from the Special Officer of the Society under Section 87 of the Tamil Nadu Co-operative Societies Act. Hence, he prayed for allowing the revision petition.

5.Per contra, the learned counsel for the respondents had contended that the society cannot use its own fund for disbursal of KCC loan to the farmers. The funds of the society are derived from the deposits made by the members of the society for which a higher interest is being paid by the society. This amount has been utilized to disburse KCC loan to the farmers at 0% interest. Therefore, there is heavy interest loss to the society. The funds of the society have been used to disburse the loan without seeking any resolution for reimbursement of the said amount from the Central Co-operative Bank. Therefore, there was not only interest loss, but there is a loss in the principal amount on the side of the society. Knowing fully well that would cause financial loss to the society, wilfully the revision petitioner had proceeded with disbursement of the loan and he had not properly supervised the Secretary who has to forward the resolution for reimbursement to the Central Co-operative Bank. Hence, he prayed for confirmation of the orders passed by the Original Authority as well as the Appellate Authority.

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

7.The revision petitioner herein was the Special Officer of Kattuputhur Primary Agricultural Co-operative Credit Society between 01.04.2010 to 24.05.2011. During the relevant period 155 Kisan Loan Cards have been disbursed to the members of the society who are the farmers. As per byelaws of the concerned society, immediately after disbursal of the loan, a resolution has to be passed by the concerned society seeking reimbursement of the said loan amount from the Central Co-operative Bank. This loan is being disbursed to the members at 0% interest for a period of one year. However, in the present case, the funds of the society which are derived from the deposits made by the members of the society has been utilized for disbursement of KCC loan at 0% interest. The society is paying higher interest rate for deposit made by the members. This amount has been utilized to disburse KCC loan at 0% interest thereby resulting in huge financial loss to the Society.

8.If the Secretary as well as the Special Officer had been vigilant enough, they could have immediately passed a resolution and forwarded the same to the Central Co-operative Bank for reimbursement of the KCC loan amount. However, it could be seen from the records that no such resolution was passed. Therefore, it is clear that there is a huge financial loss to the society in view of wilful negligence on the part of the Secretary as well as the Special Officer. Unless the resolution is being forwarded within the financial year, the society will not be able to get reimbursement. It is the further contention of the revision petitioner that already proceedings under Section 90 of the Tamil Nadu Co-operative Societies Act have been initiated as against the members for recovery of the loan and therefore, another proceedings under Section 87 of the Act cannot be initiated as against the employees of the Society. As per KCC loan procedure, the loan is available at 0% interest for a period of one year. Even if the loan amount is recovered, the interest would have been levied only after a period of one year. Therefore, the recovery of the loan amount from the member would not absolve the officials of the Society from their duty to seek reimbursement at the appropriate time.

9.It is the further contention of the revision petitioner that he was holding only an additional charge of the society and he was in-charge as Special Officer of several societies and his signature could not be obtained in the resolution for reimbursement. Such an allegation has not arisen in the other societies where he has chosen to sign the resolution for reimbursement within the time. Therefore, it is a clear case of wilful negligence on the part of the revision petitioner in not signing the resolution passed by the society for reimbursement of the KCC loan by concerned Central Co-operative Bank. Unless the Special Officer signs the resolution, the Secretary cannot forward the same to the Central Co-operative Bank. Therefore, the attempt made by the special officer to shift the liability upon the Secretary of the society is not legally sustainable. It is the further contention of the revision petitioner that even assuming that there is a loss to the Society, it would only an interest loss and the official may not be liable for the principal loan amount. If the reimbursement resolution has been forwarded in proper time, the entire principal amount would have reached the society from the Central Co-operative Bank. Therefore, the Society was right in seeking recovery of principal amount also from the concerned officials.

10.The Co-operative Tribunal in its operative portion of the order has categorically pointed out that whenever a loan amount is repaid by the concerned members of the society, the same shall be adjusted in the surcharge amount. Therefore, the difficulties expressed by the Special Officer has been taken care of, in the order of the Co-operative Tribunal. In case, if the principal and the interest amount are repaid/recovered from the farmers, the same shall be adjusted in the surcharge amount. However, the initial liability to pay the amount determined in the surcharge proceedings cannot be dispensed with.

11.In view of the above said deliberations, there are no merits in the revision petition. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12.06.2024

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

1. The Principal District Judge,
Tiruchirappalli

2.The Deputy Registrar Co-operative Societies
Musiri, having office at Musiri
Tiruchirappalli District

3.The Kattuputhur Primary Agricultural
Co-operative Credit Society by its
Special Officer having office at
Kattuputhur, Musiri Taluk, Trichy District.

4.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

R.VIJAYAKUMAR, J

msa

Pre-delivery order made in

C.R.P.(MD).No.862 of 2014
and M.P(MD).No.1 of 2014

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