



C.R.P.(MD).Nos.376, 377 and 395 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT.

WEB COPY

Dated : 06.03.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRP(MD).Nos.376, 377 and 395 of 2016

C.R.P.(MD).No.376 of 2016

The Deputy Registrar of
Co-operative Societies,
(Full Additional Charge)
Anna Nagar,
Thanthonimalai
Karur

... Petitioner

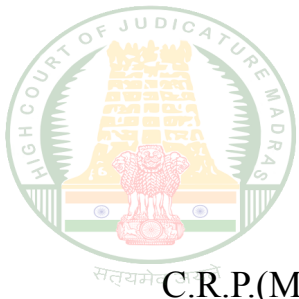
Vs.

K.Murugasan

...Respondent

PRAYER: Civil Revision Petition has been filed under Articles 227 of the Constitution of India to allow the revision and set aside the order passed in C.M.A.(CS) No.3 of 2011 dated 31.07.2014, on the file of the learned Principal District Judge, Karur and to confirm the order of the Deputy Registrar of Co-operative Societies Karur dated 06.09.2010 passed in Na.Ka.No.2020/2009.

For Petitioner : Mr.A.K.Manikkam
Special Public Prosecutor
For Respondent : No appearance



C.R.P.(MD).Nos.376, 377 and 395 of 2016

C.R.P.(MD).No.377 of 2016

WEB COPY

The Deputy Registrar of
Co-operative Societies,
(Full Additional Charge)
Anna Nagar,
Thanthonimalai
Karur

... Petitioner

Vs.

R.Rama Devudu

...Respondent

PRAYER: Civil Revision Petition has been filed under Articles 227 of the Constitution of India to allow the revision and set aside the order passed in C.M.A.(CS) No.6 of 2011 dated 31.07.2014, on the file of the learned Principal District Judge, Karur and to confirm the order of the Deputy Registrar of Co-operative Societies Karur dated 06.09.2010 passed in Na.Ka.No.2020/2009.

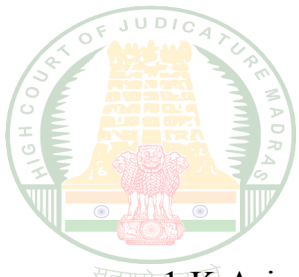
For Petitioner : Mr.A.K.Manikkam
Special Public Prosecutor
For Respondent :

C.R.P.(MD).No.395 of 2016

The Deputy Registrar of
Co-operative Societies,
(Full Additional Charge)
Anna Nagar,
Thanthonimalai
Karur

... Petitioner

Vs.



C.R.P.(MD).Nos.376, 377 and 395 of 2016

1.K.Arivumani

2.K.Veeramani

...Respondents

PRAYER: Civil Revision Petition has been filed under Articles 227 of the Constitution of India to allow the revision and set aside the order passed in C.M.A.(CS) No.9 of 2011 dated 31.07.2014, on the file of the learned Principal District Judge, Karur and to confirm the order of the Deputy Registrar of Co-operative Societies Karur dated 06.09.2010 passed in Na.Ka.No.2020/2009.

For Petitioner : Mr.A.K.Manikkam

Special Public Prosecutor

For Respondents : Mr.M.Palaniraja

COMMON ORDER

This Civil Revision Case has been filed by the Deputy Registrar, Co-operative Societies, Thanthonimalai Karur, as against the orders passed in C.M.A.(CS) Nos.3, 6 and 9 of 2011 respectively, dated 31.07.2014, on the file of the learned Principal District Judge, Karur to confirm the order of the Deputy Registrar of Co-operative Societies Karur dated 06.09.2010 passed in Na.Ka.No. 2020/2009.



C.R.P.(MD).Nos.376, 377 and 395 of 2016

WEB COPY

2. The respondents in all the Civil Revision Petitions are the paid servants of the Co-Operative Societies, Thanthonimalai, Karur. The respondents are said to have misappropriated the fund of the Society during the period 01.09.1996 to 24.05.2001. Hence, Surcharge Proceedings was initiated on 08.09.2009 and surcharge order was passed on 06.09.2010. Challenging the same, the respondents filed the Statutory Appeal before the co-operative appellate Tribunal cum Principal District Judge Karur in C.M.A.(CS).NO.3 of 2011. The said appeals have been allowed. Challenging the same, the Society filed this Civil Revision Petitions to set aside the impugned judgment.

3.Mr.A.K.Manickam, learned Special Government Pleader would submit that the proceedings was initiated belatedly is not a ground to set aside the surcharge proceedings and the loan was granted without verification of loan documents and therefore there was misappropriation. The same was not properly considered by the learned Tribunal Judge and hence, he seeks to set aside the impugned order.

4.The learned counsel for the respondents would submit that the loan was properly granted as per the resolution passed by the society and therefore, there



C.R.P.(MD).Nos.376, 377 and 395 of 2016

was no wilful or deliberate or ommission done by the paid servants to face the surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. In this case, the order was passed after expiry of the period of limitation. For one of the co-employee surcharge order was quashed in C.M.A.No.6 of 2011. Therefore, the learned Tribunal Judge has considered the above aspect and allowed the C.M.A., by setting the aside the surcharge order passed by the petitioner and there is no ground to interfere with the same and hence, he seeks to confirm the impugned order.

5.This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record and the precedents relied upon by them.

6.The respondents are said to have misappropriated the fund of the Society during the period 01.09.1996 to 24.05.2001. Hence, Surcharge Proceedings was initiated against the respondents with allegation that they had committed misappropriation of amount of Rs.10,77,931/- and surcharge order was passed on 06.09.2010.The learned Judge has also held that there was no wilful, deliberate or ommission done by the paid servants. The loan was granted to the



C.R.P.(MD).Nos.376, 377 and 395 of 2016

members as per the resolution upon scrutinization of all the records. The order of surcharge order has been issued mechanically and before passing the order, the society has not established the wilful, deliberate and omission on the part of the paid servants and the same has been fortified by the Hon'ble Division Bench Judgement of this Court reported in 2009 4 MLJ 992. This Court finds no error in the said finding.

Apart from that, the order was passed on 31.07.2014. As per the law of precedent, the surcharge proceedings under Section 87(1) has to be initiated within a period of seven years from the date of the detection of the misappropriation. In this case, the occurrence had happened during the period of 01.11.1996 to 24.05.2001. Therefore, the surcharge order was passed after the lapse of the period of limitation. Hence, the Co-operative Tribunal/Principal District Court correctly allowed the C.M.A., and dismissed the recovery order passed under Section 87(1) of the Act against the respondents by order dated 06.09.2010. Therefore, the Civil Revision Petitions lacks merit and the same are liable to be dismissed.



C.R.P.(MD).Nos.376, 377 and 395 of 2016

WEB COPY

7. Accordingly, these Civil Revision Petitions are dismissed. There shall be no order as to costs.

06.03.2024

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

To

- 1.The Principal District Court,
Karur.
- 2.The Deputy Registrar of
Co-operative Societies,
(Full Additional Charge)
Anna Nagar,
Thanthonimalai
Karur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD).Nos.376, 377 and 395 of 2016

K.K.RAMAKRISHNAN, J.

sbn

CRP(MD).Nos.376, 377 and 395 of 2016

06.03.2024