



CRP (MD) No. 563 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 17.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP(MD)No.563 of 2016
and
CMP(MD)No.2436 of 2016

A.Kandasamy

... Petitioner

Vs

1.The Deputy Registrar Co-Operative Societies,
Co-Operative Agriculture Engineering Works,
Chepauk,
Chennai – 5.

2.The Special Officer,
TN Special 224, Vasudevanallur Agriculture,
Vasudevanallur,
Sivagiri Taluk,
Sankarankovil District.

Pandian (died)

3.M.Sahul Hameed

4.G.Venkateswaran

5.S.Mariappan

6.G.Easanam



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7.M.Mariammal

8.S.Boomari

9.P.Padalingam

10.C.S.Mani

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order passed in CMA(CS)No.52 of 2009 on the file of the Principal District, Tirunelveli confirming the order dated 29.06.2009 passed in SC.No.2 of 2008 on the file of the 1st respondent.

For Petitioner : Mr.M.P.Senthil
For Respondent : Mr.A.Baskaran,
No.2 Additional Government Pleader
For Respondent : No appearance
Nos.3 to 10

ORDER

The petitioner is a dismissed accountant of the 2nd respondent society. The petitioner along with the Secretary of the society is said to have committed misappropriation, for which an enquiry under Section 81 of the Tamil Nadu Co-Operative Societies Act [herein after will be referred to as the Act] was contemplated. The enquiry report under Section 81 of the Act was filed on 08.09.2000. Thereafter further proceedings as required under Section 87 was



initiated by the 1st respondent Deputy Registrar of Co-Operatives by issuing notice on 21.07.2008. The Deputy Registrar has also passed an order of attachment. As against the same, the petitioner has preferred an appeal before the Co-Operative Tribunal under Section 152 of the Act in CSA No.52 of 2009. However the same was dismissed. As against the same, the present civil revision petition is filed.

2.The learned Counsel for the petitioner submits that the proceedings initiated under Section 87 of the Act is barred in view of the proviso to Section 87. The learned Counsel referring to the 1st proviso submits that the enquiry cannot be sustained after a period of 7 years from the date of any action or omission referred to in the Sub Section (i) of Section 87. The learned Counsel also took another ground that the proceedings initiated under Section 87 of the Act need to be completed within a period of six months as per the proviso to Section 87 and in this case enquiry was not completed within a period of six months and therefore, on these two grounds, the order passed under Section 87 of the Act is liable to be set aside.



3. The learned Additional Government Pleader by referring to the Government Order in G.O.3(D)No.64 Agriculture Department dated 21.04.2009 submits that the government has extended the time for completing the enquiry till 30.06.2009 vide government order as per the provisions available under Section 170 of the Act and therefore, the 2nd proviso is not applicable to this case. With regard to the 1st proviso, the learned Government Advocate submits that the limitation prescribed as 7 years in the 1st proviso to Section 87, whether it is mandatory or directory has been referred to the Hon'ble Full Bench of this Court in a similar writ petition in WP.No.27585 of 2021, wherein this Court has passed an order granting liberty to renew the proceedings depending upon the outcome of the Full Bench decision, as under:

“7. In that view of the matter, this Court is inclined to dispose this writ petition with the following order.

That the impugned Surcharge notice dated 19.11.2021, for the aforesaid reason of limitation, is hereby quashed and accordingly, the writ petition is allowed.

However, if ultimately the Full Bench comes to the conclusion that the 7 years limitation is not mandatory but only



directory, and the 7 years limitation shall be calculated only from the date of detection of the act or omission and not from the date of commission of the act, based on such declaration of law, if any, to be made by the Full Bench in future, it is open to the respondent to restore the Section 87 proceedings, which has been now quashed by this order, without prejudice to the rights of the parties.

8. In the result, this writ petition is allowed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.”

4. In view of the present position and the grounds raised in this writ petition with regard to the 1st proviso to Section 87 of the Act, this writ petition is disposed of in terms of the orders passed in WP(MD)No.27585 of 2021, reserving the right for the department to prosecute the proceedings, depending upon the outcome of the reference pending before the Full Bench. No costs. Consequently connected miscellaneous petition is closed.

5. Considering this delay in initiating the proceedings under Section 87 of the Act, this Court is of the view that necessary explanation has to be called for by the Registrar of Co-Operative of Societies from the concerned Deputy Registrar,



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who was in charge for initiating the proceedings under Section 87, for not initiating action even after the enquiry report filed under Section 87 of the Act in the year 2000 itself.

17.10.2024

Internet: Yes /No

Index: Yes / No

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To

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2.The Deputy Registrar Co-Operative Societies,
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Chennai – 5.

3.The Special Officer,
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Sivagiri Taluk,
Sankarankovil District.

4.The Registrar of Co-Operative Societies,
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B.PUGALENDHI, J.

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